

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

WRIT PETITION No.10237 of 2015

ORDER:

This Writ Petition is filed, under Article 226 of the Constitution of India, to declare the action of the fourth respondent in issuing order of termination vide R.C.No.86/2014, dt. 19.03.2015 against the petitioner/Anganwadi Worker as illegal and arbitrary and consequently, set aside the above said proceedings.

The petitioner was appointed as Anganwadi Worker on 17.01.1996, vide Proceedings No.409/N1/1995, dt. 07.12.1995 to Padali Village, Hiramandalam, Srikakulam District, since, then she has been discharging her duties as Anganwadi Worker without any remark or any complaint. While so, the respondent No.4 issued order of termination, vide Memo dt. 19.03.2015, without any enquiry, and that he is not competent to issue such proceedings, terminating the services of the petitioner/Anganwadi Worker. On this ground, the order of termination is liable to be set aside. Respondents made certain allegations of irregularity against the petitioner i.e., misuse of food in distribution etc., and on that ground alone, the services of the petitioner was terminated. Hence, the Proceedings issued by the 4th respondent is liable to be set aside on the ground of lack of jurisdiction.

Fourth respondent filed a lengthy counter while reiterating the allegations made in the Counter with regard to distribution of food to eligible persons. However, he admitted about issuance of orders of termination to the petitioner with the approval of competent authority i.e., the 2nd respondent, the District Collector, and the Chairman, Anganwadi Workers/Anganwadi Helpers/MINI Anganwadi Workers Selection Committee, Srikakulam District, vide Note Orders File No.174/A4/2010, dt.18.02.2015 and communicated to the third respondent and the Project Director, District Women and Child Development Agency, Srikakulam vide Memo.No.174/A4/2010, dt.

16.03.2015, duly directing that, the Child Development Project Officer, Integrated Child Development Scheme Project, Kothuru, is hereby informed that the Chairman, Anganwadi Workers/Anganwadi Helpers/Mini Anganwadi Workers Selection Committee, has approved the note file for termination of petitioner, Anganwadi Workers of Padali-2, Integrated Child Development Scheme Project, Kothuru. Hence, the order of termination of the petitioner by fourth respondent is only with the approval of the District Collector/Chairman of the Committee and therefore, the order of termination is not without jurisdiction and that there are no grounds to set aside the same, hence, he prayed to dismiss the Petition.

During course of hearing, both parties reiterated their contentions urged in their respective pleadings and considering rival contentions of both parties and perusing the material available on record, the point that arises for consideration is:

Whether the 4th respondent is competent to issue Proceedings dt. 19.03.2015 terminating the petitioner from service as Anganwadi and if not, the proceedings are liable to be set aside ?

Undisputedly, the petitioner was appointed as Anganwadi Worker by the District Selection Committee headed by its Chairman-cum-District Collector. But, she was terminated on the ground that she committed certain irregularities in distribution of food i.e., 20 eggs and other food items, without conducting any enquiry, but till today, the enquiry initiated against the petitioner is pending, the order of termination was passed by 4th respondent. In fact, the Director of Women Development and Child Welfare Department, Andhra Pradesh, Hyderabad, issued certain instructions to take disciplinary action against the petitioner and others. According to Clause-8, the procedure for initiation of disciplinary action is (1) to call for explanation whenever any irregularities are committed by the Anganwadi Workers, (2) Issue

of two Memos..... (3) If the explanation is not satisfactory, issue show cause notice. (4) Termination of Service duly approved by the District Selection Committee.

Later, Revised Norms were issued by the Department for recruitment and disciplinary action. Thus, from the material on record, it is clear that fourth Respondent is incompetent to terminate the services of the petitioner and obtaining permission from the Chairman of the Selection Committee/District Collector by the Project Officer is not contemplated anywhere in the guidelines. In the absence of any guidelines, orders of termination of the petitioner with the approval or consent of the Chairman of the Selection Committee-cum-District Collector is illegal, since, fourth respondent is incompetent and the order of termination is without jurisdiction.

A similar question came up before this Court in W.P.No.17995 of 2009, wherein this Court held that 3rd respondent herein was not competent to issue order of termination and remitted the matter to the 3rd respondent for consideration afresh.

By applying the same to the present facts and circumstances of the case and in view of the admission by the counsel for respondent that fourth respondent was not competent, but obtained approval from the Chairman-cum-District Collector and passed the order of termination, the order of termination dt.19.03.2015 vide Proceedings No.86/2014 passed by fourth respondent is illegal and arbitrary and the same is hereby set aside since it is without jurisdiction.

Accordingly, this Writ Petition is allowed. However, the Chairman of the Selection Committee-cum-District Collector is at liberty to take appropriate action on completion of departmental enquiry pending against the petitioner.

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 28-04-2016.

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Dt. 28-04-2016

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