

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

WRIT PETITION No.12200 of 2015

ORDER:

This Writ Petition is filed, under Article 226 of the Constitution of India, to declare the action of the fifth respondent in issuing orders of termination No.62/2014, dt. 30.03.2015 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 04.11.1992, vide Proceedings No.84/1992 to the Kaligam Village, Kotturu Mandal, Srikakulam District, since then, she has been discharging her duties as Anganwadi Worker without any remark or any complaint. While so, the respondent No.5 issued order of termination, vide Proceedings No.62/14, dt. 30.03.2015, without any enquiry, and that he is not competent to issue such proceedings, terminating the petitioner from service as Anganwadi Worker. Respondents have not made any specific allegations against the petitioner, but terminated the petitioner from service without conducting any enquiry. Hence, the Proceedings issued by the 5th respondent is liable to be set aside on the ground of lack of jurisdiction.

Respondents did not file any counter to contest the case.

Learned counsel for the petitioner contends that fifth respondent without jurisdiction and without conducting any enquiry against the petitioner, issued orders of termination by Proceedings No.62 of 2014, terminating the petitioner from service and hence, he prayed to set aside the proceedings.

Learned counsel for respondents admitted about the issuance of order of termination against the petitioner as she committed certain irregularities while on duty and with the approval of competent authority

i.e., Chairman of the Selection Committee-cum-District Collector, the order of termination was issued by the 5th respondent and hence, the order of termination is not without jurisdiction and there are no grounds to set aside the same and hence, he prayed to dismiss the petition.

Considering rival contentions of both parties and perusing the material available on record, the point that arises for consideration is:

Whether the 5th respondent is competent to issue Termination Order No.62 of 2014, dt.30.03.2015, terminating the petitioner from service as Anganwadi Worker, 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 while on duty, without conducting any enquiry, but till today, the enquiry initiated against the petitioner is pending, the order of termination was passed by 5th 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 fifth 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, order of termination of the petitioner with the approval or consent of the Chairman of the Selection Committee-cum-District Collector is illegal, since, fifth respondent is incompetent to issue such order 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 therein 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 fifth respondent was not competent, but obtained approval from the Chairman-cum-District Collector and passed the order of termination, the order of termination dt.30.03.2015, vide Proceedings No.62/2014, passed by fifth respondent as 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 or any competent authority as per guidelines 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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