

THE HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT PETITION No.9171 of 2012

ORDER:

This Writ Petition, filed under Article 226 of the Constitution of India, challenges the proceedings of the Child Development Project Officer, ICDS Project, Gara, Srikakulam District, dated 09-12-2011.

Heard, learned counsel for the petitioner and learned Government Pleader for Social Welfare for respondents.

The 3rd respondent issued a show cause notice bearing Memo No.91/2011, dated 17-10-2011 asking the petitioner to show cause as to why she should not be terminated from the post of Anganwadi worker on certain allegations. In response to the said show cause notice, the petitioner herein submitted an explanation on 19-10-2011, denying the charges leveled against her. Thereafter the 3rd respondent by way of proceedings No.91/2011, dated 09-12-2011 terminated the petitioner from the post of Anganwadi worker.

Challenging the validity and the legal sustainability of the said order passed by the 3rd respondent, the present writ petition came to be filed.

This Court on 12-04-2012 passed the following order:

“Learned Government Pleader has already secured records and it is also stated that a fresh notification

is issued for various centers including the one in question. However, the notification itself states that the proposed appointments so far as the location in question is concerned is subject to result of this writ petition.”

According to the petitioner, pursuant to the process of selection undertaken by the respondents, the 1st respondent – District Collector appointed the petitioner as Anganwadi worker in the month of August, 2002 and sent her for training. It is further stated by learned counsel for the petitioner that ever since the date of appointment the petitioner had been discharging her duties to the utmost satisfaction of her superiors and rendering unblemished services.

There is absolutely no dispute with regard to the fact that responding to the show cause notice, dated 17-10-2011 issued by the 3rd respondent, the petitioner herein submitted an explanation, specifically denying the allegations in the said show cause notice.

A reading of the order of removal which is under challenge in the present writ petition vividly discloses that the 3rd respondent did not refer to the explanation offered by the petitioner to the show cause notice. The 3rd respondent in the counter did not deny the submission of explanation by the petitioner herein.

Having called for the explanation and acknowledged the same, this Court does not find any justification on the part of the 3rd respondent in completely discarding the said explanation offered by the petitioner and the contents therein. This, in the considered opinion of this Court is highly arbitrary and in violation of principles of natural justice. On this ground alone, the writ petition is liable to be allowed and the impugned order of termination is liable to be set aside.

For the aforesaid reasons, the writ petition is allowed, setting aside the order of removal passed by the 3rd respondent, dated 09-12-2011 and the matter is remanded to the 3rd respondent for fresh consideration, in accordance with law, after taking into consideration the explanation submitted by the petitioner herein and after giving notice and opportunity of being heard to the petitioner. It is further made clear that subject to the outcome of said enquiry the respondents shall take action, in accordance with law. There shall be no order as to costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V. SETHA SAI, J

October 24, 2016

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