

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO. 4062 OF 2003

Atul Sharma, S/o Dr. Sita Ram Sharma, aged about 34 years, occupation Sub Engineer, Indira Kala Sangit Vishwavidyalaya, Khairagarh, R/o 55/11 Itwari Bazar, Khairagarh, District Rajnandgaon (C.G.)

... Petitioner

Versus

Indira Kala Sangit Vishwavidyalaya, Khairagarh, through its Registrar, Indira Kala Sangit Vishwavidyalaya, Khairagarh, District Rajnandgaon (C.G.)

... Respondent

For Petitioner	:	Mr. S.K. Thomas, Advocate.
For Respondent	:	Mr. Yogesh Pandey, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

21/06/2017

1. Challenge in the present Writ Petition is to the order dated 30.11.2004 (Annexure P-13) whereby the Respondent has discontinued the services of the Petitioner with immediate effect.
2. Learned Counsel for the Petitioner assailing the said order submits that the same is bad in law for the reason that the Petitioner had been duly selected by the Respondent after due process of selection as is evident from the advertisement dated 29.9.2000 (Annexure P-3) and the order of appointment dated 7.4.2001 (Annexure P-4). According to the learned Counsel for the Petitioner, the Petitioner had in fact worked with the Respondent from March, 1997 when for the first time vide Annexure P-1, dated 4.3.1997, he was appointed on daily work charged basis and had been discharging his duties since then. He further submits that the Respondent authorities have discontinued the services of the Petitioner without any justified and cogent reason nor have they complied with the principles of natural justice before passing the impugned order.

3. Per contra, learned Counsel for the Respondent opposing the writ petition submits that the Petitioner in fact does not have any indefeasible right created in his favour by virtue of appointment order dated 7.4.2001 (Annexure P-4). He refers to the order of appointment dated 7.4.2001 (Annexure P-4) highlighting the fact that the nature of appointment of the Petitioner was on temporary basis and the appointment also was for a specific fixed period of one year. He further submits that the order of appointment was not continued after a period of one year. However, the Petitioner was retained by the employer in a different capacity and he was drawing his wages under the head of work charged establishment against the amount earmarked for the development works in the campus. Thus, according to the learned Counsel for the Respondent, since the Petitioner's substantive post itself was not either regular or permanent, the impugned order cannot be said to be bad.

4. Learned Counsel for the Respondent further submits that since on the date of passing of the impugned order the status of the Petitioner was of a work charged establishment employee and that too temporary in nature, the Respondent had all the powers to discontinue his services without conducting any sort of departmental enquiry as is otherwise required for a permanent or a regular employee.

5. The aforesaid facts which have been submitted by either side are not in dispute from the plain perusal of the records of the present writ petition. By now it is settled position of law that a temporary employee that too a person who has been appointed for a fixed period, after the culmination of the fixed tenure his/her services can be discontinued at any point of time. That under such circumstances the requirement of holding a departmental enquiry or, for that matter, the requirement of compliance of principles of natural justice also would not come in the way. Since the

Petitioner did not have any indefeasible right created in this favour, this Court does not find any strong case made out by the Petitioner warranting interference with the impugned order dated 30.11.2004 (Annexure P-13) and the writ petition thus being devoid of merits the same is liable to be dismissed.

6. In the result, the present Writ Petition stands dismissed.

Sd/-
(P. Sam Koshy)
Judge

/sharad/