

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5653 of 2017

- Smt. Kavita Kashyap W/o Shri Suresh Kashyap Aged About 34 Years R/o Village Teliyapuran, Janpad Panchayat Lormi, Tahsil & District Mungeli Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Panchayat & Gramin Vikas Vibhag, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur District Raipur Chhattisgarh.
2. Collector, Mungeli District Mungeli Chhattisgarh.
3. Chief Executive Officer, Janpad Panchayat Lormi, District Mungeli Chhattisgarh.
4. Chief Executive Officer, Zila Panchayat Mungeli, District Mungeli Chhattisgarh.
5. District Program Officer Mungeli District Mungeli Chhattisgarh.

---- Respondent

And

WPS No. 5656 Of 2017

- Krishna Kumar Sahu S/o Faguram, Aged About 26 Years R/o Village Mohtara, Teli, Janpad Panchayat Lormi, District Mungeli, Chhattisgarh.

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development, Mahanadi Bhawan Mantralaya, Naya Raipur, Chhattisgarh.
2. Collector, Mungeli, District Mungeli, Chhattisgarh.
3. Chief Executive Officer, Zila Panchayat Mungeli, District Mungeli, Chhattisgarh.
4. Chief Executive Officer, Janpad Panchayat Lormi, District Mungeli, Chhattisgarh.

---- Respondent

For Respective Petitioners	Mr. A.K. Yadav and Mr. Hemant Kesharwani, Advocates
For Respondent /State	Mr. Ramakant Mishra, Dy. AG and Mr. R. Tripathi, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

31/10/2017

1. Heard.
2. Petitioner Smt. Kavita Kashyap was appointed as Rozgar Sahayak of Gram Panchayat, Teliyapuran, whereas, petitioner Krishna Kumar Sahu was appointed as Rozgar Sahayakat for Gram Panchayat Mohtara Teli in the year 2008 and 2013 respectively, initially for a period of one year, which was extended for each succeeding years and was continuing on the date, when the order of termination was passed on 26.4.2017.
3. Both the petitioners had preferred appeals before the Collector, Mungeli, however, the said appellate authority has dismissed the appeals, as not maintainable, by referring to the letter issued by the Department of Panchayat and Rural Development Department, Government of Chhattisgarh, on 07.07.2017.
4. It is argued that the contract appointment was continuing for a period of one year for each succeeding years, however, the same has been terminated without giving any show cause notice or opportunity of hearing to the petitioners. It is further submitted that there was no complaint against the petitioners'

working, but yet the appointment has been cancelled on the ground that the payment to a Rozgar Sahayak is made from the amount received by the Gram Panchayat for the work under the Mahatma Gandhi National Rural Employment Guarantee Scheme in the ratio of 2% of the total work, however, from the online MIS report for Block Lormi, it is found that sufficient work is not generated in the concerned Gram Panchayats. Therefore, there is lack of funds for payment of honorarium to Rozgar Sahayak resulting in absence of need of the petitioners' services.

5. It would be apparent from perusal of the letter dated 09.03.2017 of the Zila Panchayat, Mungeli (filed as Annexure P/2 & P/5 in the respective writ petitions) that some work under the MGNREGA Scheme is available, however, that is not sufficient to generate the resource for payment of honorarium to Rozgar Sahayak. It is also to be seen that in the appointment order issued in favour of the petitioners, it is mentioned that if proper work is not available, their services would be terminated.
6. Whether or not sufficient amount is generated depends upon allocation of funds by the Government to the concerned Gram Panchayat, which is not in control of the petitioners. It is also not a case that the Government has been able to achieve the target of elimination of poverty bringing each rural man of the concerned Gram Panchayat to the level of above poverty line or that there is no need of any work assigned under the MGNREGA Scheme. As long as the MGNREGA scheme is applicable and some work is done under a particular Gram Panchayat, it is

debatable whether the services of Rozgar Sahayak can be terminated and that too without assigning any show cause notice or giving opportunity of hearing to them.

7. Be that as it may, there being violation of principles of natural justice, which is *prima facie* established from the language of the order of termination itself and for the reason that no order adverse to an individual be passed without following the principles of natural justice, as held by the Supreme Court in the matter of **State of Punjab & Ors. v. Senior Vocational Staff Masters Association & Ors. (AIR 2017 SC 4072)**, the impugned order deserves to be and is hereby quashed at the admission stage itself. However, liberty is reserved in favour of the competent authority to take appropriate action after giving opportunity of hearing to the petitioners or to take decision about continuation of the petitioners' services at the end of completion of the period of contract appointment.
8. It is also made clear that the observations made in the preceding paragraphs of this order shall not be construed in favour of either parties and any action or proceeding initiated against the petitioners, after issuance of show cause notice against them, shall be decided strictly in accordance with its own merits and law.

9. The writ petitions are allowed to the extent indicated above.

Sd/-
Judge

(Prashant Kumar Mishra)

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