

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2650 of 2017

- Narendra Singh Sidar S/o Shri Dayaram Sidar, Aged About 37 Years R/o Village Baradwar Basti, Police Station & Tahsil Sakti, District Janjgir Champa (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Panchayat And Social Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh)
2. The Chief Executive Officer, Zila Panchayat, District Janjgir Champa, Chhattisgarh.
3. The Collector, District Janjgir Champa (Chhattisgarh)
4. The Chief Executive Officer, Janpad Panchayat, Sakti, District Janjgir Champa (Chhattisgarh)

---- Respondent

And

WPS No. 2733 Of 2017

- Smt. Reshma Sahu W/o Shri Bodhiram Sahu, Aged About 35 Years R/o Village Paladikala, Police Station & Tahsil Sakti, District Janjgir- Champa (Chhattisgarh).

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Panchayat And Social Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh).
2. The Chief Executive Officer, Zila Panchayat, District Janjgir- Champa (Chhattisgarh).
3. The Collector, District Janjgir- Champa (Chhattisgarh).
4. The Chief Executive Officer, Janpad Panchayat, Sakti, District Janjgir- Champa (Chhattisgarh).

---- Respondent

And

WPS No. 2738 Of 2017

- Vinay Raj S/o Shri Gandhi Raj, Aged About 38 Years, Resident Of Village Sakreli (B), Police Station & Tahsil Sakti, District Janjgir-Champa (Chhattisgarh).

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Panchayat And Social Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh).
2. The Chief Executive Officer, Zila Panchayat, District Janjgir-Champa, (Chhattisgarh).
3. The Collector, District Janjgir- Champa (Chhattisgarh).
4. The Chief Executive Officer, Janpad Panchayat, Sakti, District Janjgir- Champa (Chhattisgarh).

---- Respondent

And

WPS No. 2673 Of 2017

- Dhaniram Gond S/o Pardeshiram Gond, Aged About 39 Years R/o Village Singhansara, Police Station & Tahsil Sakti, District Janjgir Champa (Chhattisgarh).

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Panchayat And Social Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh).
2. The Chief Executive Officer, Zila Panchayat, District Janjgir-Champa (Chhattisgarh).
3. The Collector, District Janjgir- Champa (Chhattisgarh).
4. The Chief Executive Officer, Janpad Panchayat, Sakti, District Janjgir- Champa (Chhattisgarh).

---- Respondent

And

WPS No. 2729 OF 2017

- Dev Prasad Jangde S/o Shri Darashram Jangde, Aged About 38 Years R/o Village Sapnaipali, Police Station & Tahsil Sakti, District Janjgir Champa Chhattisgarh.

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Panchayat And Social Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh)
2. The Chief Executive Officer, Zila Panchayat, District Janjgir Champa, Chhattisgarh.
3. The Collector, District Janjgir Champa, Chhattisgarh.
4. The Chief Executive Officer, Janpad Panchayat, Sakti, District Janjgir Champa, Chhattisgarh.

---- Respondent

And

WPS No. 2732 OF 2017

- Indal Bareth S/o Shri Rameshwar Bareth, Aged About 32 Years R/o Village Nandaurkala, Police Station & Tahsil Sakti, District Janjgir- Champa (Chhattisgarh).

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Panchayat And Social Welfare Department, Mahanadi Bhawan, Mantralaya, New Raipur (Chhattisgarh).
2. The Chief Executive Officer, Zila Panchayat, District Janjgir- Champa (Chhattisgarh).
3. The Collector, District Janjgir- Champa (Chhattisgarh).
4. The Chief Executive Officer, Janpad Panchayat, Sakti, District Janjgir- Champa (Chhattisgarh).

---- Respondent

For Petitioners	Ms. Sharmila Singhai, Advocate
For Respondent /State	Mr. Adhiraj Surana, Dy. GA
For Respondent / Janpad Panchayat	Mr. SP Kale, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

9/11/2017

1. Heard.
2. The petitioners are working as *Rozgar Sahayak* in different Gram Panchayats within the area of Janpad Panchayat, Sakti. They are aggrieved by the order, whereby, their contract appointments have not been renewed and instead the Janpad Panchayat has proceeded to appoint new *Rozgar Sahayak* in the respective Gram Panchayats and for that, an advertisement has already been issued.
3. It is argued that one set of contract employees cannot be replaced by another set of contract employees. Reference is made to the law laid down by the Supreme Court in the matter of **Hargurpratap Singh Vs. State of Punjab and others, (2007) 13 SCC 292**. It is also argued that the impugned order has been passed in gross violation of the principles of natural justice, inasmuch as, the petitioners have not been issued any show cause notice nor have been afforded any opportunity of hearing

before taking the impugned action.

4. Mr. Kale, learned counsel for the Janpad Panchayat, would draw attention of the Court to the documents filed along with the return to put-forth his case that the petitioners were found negligent and derelict in performing their duties of *Rozgar Sahayak*, therefore, each of them were issued show cause notice before their removal and the petitioners having failed to satisfy the authorities about their innocence in the matter, the order has been issued without causing any stigma, as there is no allegation against any of them in the impugned order that they are removed on the basis of certain allegations of misconduct. He would submit that in such a case, the order would amount to a simple non-renewal of contract appointment and is not punitive in nature.
5. True, it is that a simple non-renewal of contract appointment would not furnish any right of entitlement in favour of a contract employee to seek reappointment, however, the situation is different when another set of contract employees is sought to be introduced in the same Gram Panchayat.
6. From the papers produced before this Court, it would appear that having argued that the show cause notices were issued to the petitioners for commission of misconduct, the argument that the impugned order is non-renewal of contract services simplicitor may not hold good as it would amount to blowing

hot and cold. If there was an allegation of misconduct, for which, notices were allegedly issued, the non renewal of contract appointment cannot be simplicitor. At the same time, the documents filed with the return demonstrating and substantiating the plea of affording opportunity of hearing to the petitioners also fail to impress because the documents are not issued in the name of any of the petitioners.

7. The words "*Sarva Rozgar Sahayak*", Janpad Panchayat, Sakti is mentioned in the notices, which cannot be treated as individual notices to a particular *Rozgar Sahayak*. It is only a mechanical effort to comply with the principles of natural justice . It is not a case of the respondent – Janpad Panchayat that the petitioners were tried to serve notices but they refused to accept.
8. Without commenting further as to whether or not the notices were in existence on the date of issuance of the impugned order, it is only observed that in the facts and circumstances of the case, this Court is not satisfied that the principles of natural justice have been complied with.
9. For the foregoing, the impugned orders/action of non-renewal of contract appointments are set-aside on the ground of violation of principles of natural justice, if misconduct is alleged, as also on the ground that one set of contract employees cannot be replaced by another set of contract employees, as held by the Supreme Court in the matter of **Hargurpratap Singh (supra)**.

10. The advertisement inviting fresh applications for filling up the respective posts on which the petitioners are working, shall not be further processed till the respondents hear the petitioners and take any adverse action against them in accordance with law.

11. It will remain open for the Janpad Panchayat to serve notice to each of the petitioners and take appropriate action for their removal in terms of the State Government's Circular governing the employment of *Rozgar Sahayak* and take action in accordance with law after giving proper opportunity of hearing. In view of the fact that non-renewal of service has been found illegal, the petitioners shall be allowed to continue on contract service in accordance with the contract till the respondents take any adverse action against them by following the principles of natural justice.

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

Sd/-

Judge

(Prashant Kumar Mishra)

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