

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.27604 OF 2017

ORDER:

The petitioner states that she underwent training from 05.03.2006 to 03.04.2006 from the Academy of Nursing Studies, Hyderabad, conducted by Department of Family Welfare, Andhra Pradesh, under the Project of RCH-2 (Reproductive and Child Health), and on the basis of the said training, she was appointed as ASHA Worker in the year 2006. While so, in the month of August, 2016, she was suffering from fever and as she could not recover from the same, she went to Hyderabad for better treatment, where Doctors advised her to take rest. As soon as she recovered from illness, she approached the third respondent requesting him to permit her to discharge duties. The third respondent did not issue any order permitting her to discharge duties on the ground that the Sarpanch made temporary arrangement and her services would be dismissed. When the petitioner was not allowed to discharge her duties, she applied to the third respondent under the Right to Information Act and it revealed that the petitioner absented herself from duties from August, 2016 and the Sarpanch of the Village passed a resolution to remove the petitioner. It was also stated that no new ASHA Worker was appointed by inviting applications. However, on the resolution of the Gram Panchayat, the fourth respondent was appointed. A copy of the resolution passed by the Gram Panchayat was enclosed. On the basis of the said information, the petitioner filed the present writ petition challenging the action of the third respondent in not permitting her to perform her duties as ASHA Worker.

A counter affidavit is filed by the third respondent stating that the petitioner was selected as ASHA Worker of Maripally Village, Uppunuthala Mandal, Nagarkurnool District by the Village Health Sanitation and

Nutrition Committee headed by the Sarpanch, Ward Members, NGOs, ANM, Anganwadi Worker, Medical Officer in March, 2006, as per the guidelines issued by the Government. Since she had no training, she was sent for training to Academy of Nursing Studies, Hyderabad, conducted by Department of Family Welfare. She started functioning from the year 2006. She absented from duties from 01.09.2016 without applying any leave nor is there any intimation to the Controlling Officer. Since the work of National Programmes was hampered, on the information of a Sarpanch, the Village Health Sanitation and Nutrition Committee conducted a Meeting on 15.09.2016 and resolved to appoint fourth respondent, who is having higher educational qualification. Though the petitioner stated that she recovered from illness in the month of December, 2016, she did not report for duty nor submitted the Joining Report upto 15.05.2017. The Medical Certificates issued by the petitioner were introduced only for the purpose of covering up her lapse. If the individual does not attend three consecutive VHNDs/Monthly Meetings at PHC level without giving any information/reason, the person can be removed from the service. Accordingly, the Sarpanch conducted a Meeting on 15.09.2016 and resolved to remove the petitioner and appoint the fourth respondent in her place.

Even after notice to the fourth respondent, none appears for the fourth respondent.

It is clear from the above facts that the petitioner was appointed as ASHA Worker in the year 2006 and she absented herself from the duties without intimation to the controlling officer from August, 2016. Though she stated that she wanted to join in the month of December, 2016, she was not allowed to join the duties and the said allegation was disputed by the third respondent in the present counter affidavit stating that till May, 2017, she did not report for duty. It is also stated that the fourth respondent was

appointed in the place of the petitioner by virtue of the resolution passed on 15.09.2016.

The point that remains for consideration is whether the petitioner can be removed from the service by virtue of the Resolution passed on 15.09.2016.

The Guidelines for removal of ASHA Workers states as follows.

4. Removal of ASHA:

Following is criteria for declaring any ASHA as an inactive/Dormant ASHA, Drop Out, if:-

- She has submitted a letter of resignation to the VHSNC/VLC and her Facilitator, OR
- She has not attended the three consecutive VHNDs, without giving any information/reason for the same, OR
- She has not attended the three consecutive Monthly Meetings at PHC, without giving any information/reason for the same, OR
- She has not been active in most of the RMNCH+ Activities and like mobilization of pregnant women/mother/newborn for routine immunization services, home visits for HBPNC and population stabilization services etc., in her area, OR
- DAC, BAC, AF visited the village of ASHA and ascertained through discussions with all VHSNC/VLC members that she is indeed not active.

If there is a genuine problem, she should be supported until it is overcome through the VHSNC or village SHG. If the problem persists and the community also agrees that ASHA should not continue, a signed letter stating this should be obtained from her and approved by BAC/CM after due validation from Gram Sabha/Panchayat.

In case of her contesting her removal, it should be referred to the DAC or other person appointed by the Executive Secretary of the District Health & Family Welfare Society, who would listen to her views, record them and then take a final view.

It is desirable in case of all 'dropouts' whatever the reason, to conduct and document an exit interview. Vacancies howsoever they arise, should be filled in by the same selection process as laid down by the State Government, based on these guidelines.

Thus, the AHSA Worker can be removed from service only if she does not attend three consecutive VHNDs, without giving any

information/reason for the same or she absented from three consecutive monthly meetings at PHC, without giving any information/reason for the same. In the instant case, the Resolution was passed on 15.09.2016 for her absence from 01.09.2016. The three months period has not elapsed. In such circumstances, the Resolution alleged to have been passed on 15.09.2016 removing the petitioner is bad in law. Accordingly, it is held that the petitioner cannot be removed from service and the third respondent is directed to permit the petitioner to discharge her duties as ASHA Worker since she rendered service for more than ten years. However, this Order will not preclude the third respondent from taking appropriate action in accordance with law, if the third respondent so chooses.

The writ petition is accordingly allowed. Consequently, miscellaneous petitions, if any pending, in this writ petition, shall stand closed.

16.11.2017
pln

A.RAMALINGESWARA RAO, J

