

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of decision: 05.05.2017

CWP No.4510 of 1997

The State of Haryana

...Petitioner

Vs.

Savita Rani & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vishal Garg, Addl. AG, Haryana,
for the petitioner.

Mr. Suvineet Sharma, Advocate,
for respondent No.1.

RAJIV NARAIN RAINA, J. (ORAL)

The first respondent was an Anganwari worker. Her services were terminated when the Director, Social Welfare Department, Haryana made a surprise visit to her Anganwari centre where she worked and found that she was not only absent from duty, but her centre was shut. For this valid reason, her services were terminated in January, 1992. She had served as Anganwari worker from January, 1988 onwards till termination. This is the case propounded by the Management.

To show that the termination was illegal, one of the mainstay arguments put forward by Mr. Sharma appearing for the first respondent is that if such state of facts are to be believed as valid and legal, then the termination should have been preceded by an enquiry and the minimal observance of the rules of natural justice is required to be maintained even though Anganwari worker is not a civil servant.

The Labour Court after trial and evidence has awarded reinstatement with continuity of service and full back wages declaring the termination illegal and void.

The question raised is that even an honorary worker is protected by the principles of natural justice, if not service rules. Mr. Sharma cites Single Bench (S.S.Nijjar, J.) judgment in State of Haryana & another Vs. Smt. Kanta Devi & another, 2002 (2) SCT 900, which is also a case of Anganwari worker terminated on account of her work and conduct not being satisfactory. In that case, a number of warnings had been given to the respondent, which were set out in the written statement filed by the State. However, no charge-sheet was issued and no enquiry was held. This Court held that an Anganwari worker was clearly entitled to be informed of the charges levelled against her.

This judgment may be of no immediate help to Mr. Sharma, but it guides the way at least to confirm that the question whether the petitioner was found absent or her centre was closed, was a question of fact or not. Even that required to be proved by legal evidence and a reasonable opportunity given to the workman to admit or deny the fact and if admitted to explain her reasons why she was absent or the Anganwari centre closed. Those reasons could have been considered if they were genuine. This approach requires the minimal observance of procedural safeguards, which can only be established in either a fact finding enquiry or a preliminary enquiry or a regular enquiry, as the case may be.

Since no enquiry was held as argued by Mr. Sharma, then the fault is with the Department not to have conducted an enquiry into the incident. In these circumstances, this court would have to apply the

principles in Managing Director ECIL Vs. B. Karunakar, (1993) 4 SCC 737: AIR 1994 SC 1074 to return the parties to the spot where the fault occurred.

Therefore, the impugned award dated 17.09.1996 is set aside. The petitioner will not have any right to back wages. She will be treated in deemed suspension from the date of termination. Accordingly, the case is remitted to the Director, Social Welfare Department, Haryana to re-examine the issue of misconduct alleged against the respondent – workman and if it was true, a fact finding enquiry be ordered where the respondent – workman would have full opportunity to defend herself and to prove that she was innocent of the misconduct alleged. The respondent – workman would appear in the office of the Director, Social Welfare Department, Haryana on 08.06.2017. On appearance, the respondent will be supplied photocopies of all the documents on the basis of which a fact finding enquiry is going to be held. It is expected that endeavour will be made to conclude the fact finding enquiry within a period of three months.

With these observations and directions, the petition stands disposed of.

05.05.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*