

HIGH COURT OF CHHATTISGARH, BILASPUR**Reserved on 19.01.2018****Delivered on 23.01.2018****Writ Appeal No. 557 of 2017**

(Arising out of order dated 11.05.2017 in WP(S) No. 2661/2015 of the learned Single Judge)

- Satyendra Kumar Mishra S/o Shri Ramsiya Mishra Aged About 35 Years R/o Village Budar Post Budar P. S. Patna Tahsil- Baikunthpur District Korea (Chhattisgarh) Working As Ward Boy Contract Basis Primary Health Center Haldibadi (Chirmiri) District Korea (Chhattisgarh).

---- Appellant**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Public Health And Family Welfare Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
2. The Director Health Services Indrawati Bhawan New Raipur District Raipur (Chhattisgarh)
3. The Collector Korea, Baikunthpur, District Korea (Chhattisgarh)
4. Chief Medical And Health Officer Baikunthpur District Korea (Chhattisgarh)
5. Block Health Officer Community Health Center Haldibadi (Podi) District Korea (Chhattisgarh)

---- Respondents

For Appellant : Shri A.N. Pandey, Advocate

For Respondent-State : Shri Y.S. Thakur, Additional Advocate General

Hon'ble Shri Thottathil B. Radhakrishnan, Chief Justice
Hon'ble Shri Sharad Kumar Gupta, Judge

C.A.V. JUDGMENT**Per Sharad Kumar Gupta, Judge**

1. In this writ appeal, the challenge levied is to order dated 11.05.2017 passed by the learned Single Judge of this Court in Writ Petition(S) No.2661/2015 whereby and whereunder he dismissed the writ petition filed by the appellant for his reinstatement in service on the post of ward boy.

2. In brief, the appellant's case is that he was posted initially as peon on contract basis at the Primary Health Center, Janakpur vide order dated 01.10.2003 (Annexure P/2) for two years. Thereafter, his service was extended time to time as ward boy. Lastly, his service was extended on 27.05.2014 (Annexure P/6) from 27.05.2014 to 31.03.2015 and posted at the Primary Health Center, Haldibadi. The post of ward boy is still vacant at his last place of posting. He has rendered his service continuously for 12 years and all of a sudden he has been removed from the service. Respondent No. 3 issued an advertisement for regular appointment for several posts including ward boy.

3. In brief, the respondent's case is that on 31.03.2015 the Chhattisgarh Civil Sewa (Samvida Niyukti) Niyam, 2012 (hereafter called as 'the Rules, 2012') was applicable. As per this Rule the appellant cannot claim issuance of any fresh order for taking him back in service. The selection and appointment process of regular appointment have been completed. Now, no post of ward boy is lying vacant there.

4. The learned Single Judge dismissed the appellant's writ petition as aforesaid. Being aggrieved, the appellant preferred this writ appeal.

5. Shri A.N. Pandey, counsel for the appellant argued that there was no complaint against the appellant. His service has been terminated without assigning any reason and without following due process of law. Thus, the impugned order of the learned Single Judge may be set aside and the respondents may be directed to reinstate the appellant in his service on the post of ward boy.

6. Shri Y.S. Thakur, Additional Advocate General for the State supporting the impugned order argued that the same is in conformity with the provisions of the Rules, 2012 and warrants no interference.

7. As per Annexure P/6, the appellant's service was extended from 27.05.2014 to 31.03.2015 or till regular appointment whichever comes earlier.

8. It would be pertinent to mention Rule 11(4) of the Rules, 2012 which is extracted hereunder:-

“11(4) Contract appointment shall stand terminated automatically on expiry of the period of the contract appointment and there shall be no need to issue separate order terminating the service.”

9. On a plain reading of the Rule, it manifests that the service of the appellant stood terminated automatically on 31.03.2015.

10. The judicial precedent laid down by the Hon'ble Supreme Court in **Secretary, State of Karnataka & Others vs. Umadevi & Others {2006 (4) SCC 1}** is related with the regularization of the service of daily wage and ad-hoc employees. The appellant's case is that he was appointed on contract basis. This is not his case that he was appointed on daily wage or ad-hoc employment.

11. On the basis of the aforesaid discussion, we are in complete agreement with the reasoned impugned order of the learned Single Judge which is in accordance with the spirit of the provisions of the Rules, 2012. We also notice that the learned Single Judge has observed that if the appellant/petitioners have applied pursuant to the fresh advertisement and the recruitment process is not over, their case may be considered by the respondent authorities by granting age relaxation looking to the length of contract service and as per the extant rules.

12. In the result, we conclude that there is no substantial issue which has been raised in this appeal calling for interference with the impugned order of

the learned Single Judge.

13. Accordingly, the writ appeal is dismissed without prejudice to what is stated in paragraph No.7 of the impugned order of the learned Single Judge.

No order as to costs.

Sd/-

(Thottathil B. Radhakrishnan)
CHIEF JUSTICE

Sd/-

(Sharad Kumar Gupta)
JUDGE

kishore