

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3098 of 2018

Amresh Singh S/o Shri Banarshi Singh Aged About 35 Years
Working On The Post Of Protection Officer Non - Institutional Care
Woman And Child Development Balrampur District Balrampur
Chhattisgarh., District : Balrampur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of
Women And Child Development New Raipur District Raipur
Chhattisgarh., District : Raipur, Chhattisgarh
2. The Collector Women And Child Development, Balrampur District
Balrampur Ramanujganj Chhattisgarh., District : Balrampur,
Chhattisgarh
3. The District Program Officer Women And Child Development
Department Balrampur District Balrampur Ramanujganj
Chhattisgarh., District : Balrampur, Chhattisgarh
4. Chief Executive Officer Zila Panchayat Balrampur District Balrampur
Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh
5. Child Welfare Committee Balrampur District Balrampur
Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

---- Respondents

For Petitioner: Mr. A.N. Pandey, Advocate.

For State : Mr. Satish Gupta, GA

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

17/04/2018

1. Heard on admission.
2. Present petition has been filed against order dated 28-03-2018 by
which the Collector has terminated contractual employment of the

petitioner on allegations of irregularities and negligence in performance of duties.

3. Learned counsel for the petitioner would submit that the petitioner has been dismissed from service without holding fulfilled departmental enquiry but only by giving a show cause notice. After show cause notice was given to the petitioner, the petitioner not only replied to the allegations but also explained his position. The nature and gravity of allegation against the petitioner was not of such a nature as to warrant termination. It is further submitted that as the petitioner was appointed by respondent No. 3, the District Programme Officer, therefore, Collector could not have terminated his services. Further submission is that the petitioner has not committed any misconduct or irregularity or acted negligently in performance of his duties and functions.

4. In so far as, challenge to the authority of Collector is concerned, the same is liable to be rejected on the threshold because the petitioner was appointed only under the orders of the Collector vide order dated 24-11-2017 Annexure P-2. District Programme Officer acted under the authority of the Collector. He was authorised by the Collector and the order has been issued from the Office of the Collector (Women and child Development Department). Present is not a case of statutory appointment under any service rules wherein, District Programme Officer alone has been designated as the appointing authority but appointment of the petitioner is merely contractual and non-statutory appointment.

5. As far as grievance with regard to the procedure adopted in terminating the petition is concerned, this Court does not find that the procedure adopted by the competent authority suffers from any illegality or violation of principles of nature justice. The petitioner was merely a contractual employee. His appointment order dated 24-11-2017 shows that he was appointed on contractual posts for a short period of two years which could be extended upon assessment of his performance for further period. The condition of appointment also shows that the services of the petitioner could be terminated by giving him a months notice in case his work is not found satisfactory.

6. As the petitioner is not a regular Government Servant and only a contractual employee, the provisions of service C.G. Classification and control Appeal rules, 1966 are not applicable. Rule 3 of the rules of the

1966 clearly provides that the rules shall not apply to any person in casual employment. The person appointed on contractual basis for two years cannot be said to be a member of Civil services of the State but he only acquires the status of person in casual employment which could be terminated in accordance with the terms of the appointment order. It is not necessary for the competent authority to issue detailed charge-sheet and institute departmental enquiry under rule 14 of the rules of 1966.

7. Nevertheless, it being a case of public employment, principles of fairness, natural justice would be applicable. These requirements in public domain emanate from mandate of article 14 of the Constitution of India. Even though, a detailed departmental enquiry may not be required under the law, atleast an opportunity of hearing is necessarily to be afforded before terminating the services of a contractual employee. If the operative reason to terminate the services is allegation of misconduct as distinguished from mere unsuitability for the job, if the work is not satisfactory, the services could be terminated by giving a month's notice as given in the terms and conditions of employment. If there is an allegation of misconduct, though departmental enquiry may not be necessary, show cause notice is required to be given to afford the contractual employee an opportunity of hearing and rebutt the allegations. This much of exercise has definitely been done in the present case. The petitioner was given show cause notice on more than one occasion, his reply was obtained and authority, not satisfied with his reply, decided to terminate services of the petitioner. Thus, the mandate of article 14 is fully complied with. There is no material, pleading or any other material documents to show that the extraneous consideration played role in terminating service of the petitioner.

In writ petitions, the Writ Courts do not act as appellate authorities. The decision making process and not the decision, falls for scrutiny to find out whether the action of the public authority is in accordance with law. If there is defect in the decision making process or the decision is tainted with malice in law or malice in fact and the authority which exercised the power had no authority under the law to pass order or where the order suffers from perversity, interference by the writ Court may be called for.

8. Applying the aforesaid well settled principles in the matter of interference in writ petition, in the factual premise of the present case,

petitioner being a contractual employee, this Court is not inclined to interfere with the order impugned. The writ petition is therefore dismissed.

Sd/-

(Manindra Mohan Shrivastava)

Judge