

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 2793 of 2016

Laxminarayan Sahu S/o Prem Lal Sahu, aged about 31 years,
Occupation Service (Peon), R/o village Rasota, P.S. Palari, District
Baloda Bazar – Bhatapara (C.G.).

---Petitioner

Versus

1. State of Chhattisgarh, through the Secretary, Department of Health, Mahanadi Bhawan, Capital Complex, Secretariat, Naya Raipur, District Raipur.
2. The Director, Directorate of Health Services, Block-I, Indrawati Bhawan, 3rd Floor, Naya Raipur, District Raipur (C.G.).
3. The Collector, District Baloda Bazar-Bhatapara.
4. The Chief Medical & Health Officer, Balodabazar, District Balodabazar – Bhatapara (C.G.).
5. The Chief Medical & Health Officer, Balodabazar, District Balodabazar-Bhatapara (C.G.).

---Respondents

For petitioner	:	Shri Sandeep Dubey, Advocate.
For State	:	Shri Arvind Dubey, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

21/01/2019

1. In the instant Writ Petition, the order under challenge is the order of termination dated 16/06/2016 passed by the Chief Medical Health Officer, Balodabazar-Bhatapara (C.G.).
2. The counsel appearing for the petitioner makes a submission before this Court that the same termination order in respect of the other similarly placed persons were subjected to challenge by way of Writ Petitions before this Court and the Single Bench of this High Court had initially dismissed

those Writ Petitions, but the division Bench of this Court while hearing the appeal against the dismissal of Writ Petition vide order dated 27/09/2017 has set-aside the said judgment of the Single Bench and have allowed the appeals vide judgment dated 24/09/2018.

3. The copy of judgment of the Division Bench has been brought on record wherein in paragraphs 14, 15, 16 & 17, the division Bench of this Court while set-aside the judgment of the single Bench as also the order of termination dated 16/06/2016 passed by the CMHO, Balodabazar-Bhatapara has held as under:-

“14. The issue is not about the principle. The issue is the manner and mechanism under which the whole exercise has been done. If the employee who is substantively appointed and have been confirmed under services were terminated on the basis of an enquiry in which they were never given an opportunity to participate and only a formality of show cause was issued to them on the basis of the three members Committee report, then in our opinion, it does not satisfy requirements of the rules of the natural justice or requirement under the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966.

15. In the facts and circumstances, we therefore, hold the order of termination dated 16.06.2016 passed by the CMHO, Baloda Bazar as well as the order dated 27.09.2017 passed by the learned Single Judge upholding such decision of termination to be irrational and arbitrary and therefore, they deserve to be

set aside and are set aside. It goes without saying that all these Appellants will be reinstated in their services forthwith.

16. The respondents, however, are given liberty that they will issue individual notices and hold enquiry in relation to the appointments on the post so made of all these terminated employees and this exercise cannot be a collective exercise because the authorities will have to identify as to which appointment was irregular and which appointment was illegal in the enquiry. In the departmental proceeding to be held and on the findings thereon, the law will take its course. The said enquiry will be concluded preferably within a period of six months.

17. Before disposing these appeals, the Court also directs all the appellants that on the notice so given to them by the Appointing Authority who is said to be CMHO, Baloda Bazar, they will co- perate in the enquiry and will not unnecessarily delay the same on one pretext or the other.”

4. These factual matrix of the case as also the judgment of the division Bench and the case of the petitioner being identical is not disputed by the learned State counsel.

5. In the given facts, this Court has no hesitation in holding that the impugned order dated 16/06/2016 passed by CMHO, Balodabazar-Bhatpara in the present Writ Petition also would not be sustainable in terms of the judgment of the Division Bench of this Court on 24/09/2018 in Writ Appeal No. 448/2017 and other connected appeals.

6. The respondent/State in this case also would have same liberty as has been granted by the Division Bench in the aforesaid orders.

7. Accordingly, the Writ Petition stands allowed. The impugned order of termination stands set aside in similar terms as ordered in WP No. 448/2017 decided on 24/09/2018.

Sd/-

(P. Sam Koshy)
JUDGE

Sumit