

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 135 of 2020**

*{Arising out of order dated 09.10.2018 passed by the learned Single Judge in Writ
Petition (S) No. 6734 of 2018}*

1. State of Chhattisgarh Through The Secretary, Department of Panchayat and Rural Development, Mahanadi Bhawan, Mantralaya, Naya Raipur, District : Raipur, Chhattisgarh
2. State Rural Livelihoods Mission Bihan, Through State Mission Director, Office of The Development Commissioner, Hall No. - 38, (Block C-Iv), 1st Floor, Indravati Bhavan, Naya Raipur, District – Raipur, Chhattisgarh.
3. Zila Panchayat Rajnandgaon Through Chief Executive Officer, Sarguja, District – Sarguja, Chhattisgarh.
4. Janpad Panchayat Lundra Through Chief Executive Officer, Lundra, District – Sarguja, Chhattisgarh. (All The Appellants are Respondents In Writ Petition)

---- Appellants**Versus**

- Kulchander Ekka S/o Late Shri Nanjariyus Ekka Aged About 43 Years Village Khantadand, Post Kurdeg, District – Jashpur, Chhattisgarh (Petitioner in the writ petition)

---- Respondents

For Appellant/State	:	Shri Sudeep Agrawal, Deputy Advocate General.
For Respondent	:	Shri Pranjal Shukla, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Justice Parth Prateem Sahu, Judge****Judgment on Board****Per P. R. Ramachandra Menon, Chief Justice****04.02.2020**

1. This appeal has been preferred by the State, being aggrieved by some observations made by the learned Single Judge in the paragraph 5 of the

judgment, though no positive relief has been given to the writ Petitioner, but for granting the liberty to approach the Appellant for further contractual appointments, if at all any.

2. The appeal is belated by 415 days and hence an application has been filed for condonation of delay.
3. We heard Shri Sudeep Agrawal, the learned Deputy Advocate General as well as the Shri Pranjali Shukla, the learned counsel for the Respondent/writ Petitioner.
4. On going through the judgment, it is seen that the service of the Respondent, who was engaged on 'contract basis', was put an end to as per order dated 12.06.2018, to be with effect from 12.07.2018 *i.e.* by serving one months' notice in advance. This was sought to be challenged by the Respondent/writ Petitioner pointing out that the order of termination casts some stigma because of certain allegations raised therein and that the same may bar his way in seeking further employments. Since the termination was effected with reference to such allegation and further since no enquiry was conducted and no opportunity was given to rebut the said allegations, it had to be interdicted and hence the writ petition.
5. These aspects were taken note by the learned Single Judge and considering the limited prayer of the writ Petitioner, with reference to the possible stigma which may continue if the order of termination is not interdicted, it was observed in explicit terms in paragraph 5 that in view of the settled position of law, it is the prerogative of the employer to discontinue the services of a 'contract employee' and one months' notice has already been given in the instant case; by virtue of which there cannot be any relief by way of reinstatement. But, observing that the order also makes some reference to 'indiscipline' and 'misconduct' on the

part of the Respondent/writ Petitioner and admittedly since no opportunity of hearing was given to him in this regard, it may still remain as a stigma and hence the matter was disposed off in the following terms as given paragraphs 6 and 7:

“6. Given the aforesaid facts and circumstances of the case, since the contract period of the petitioner has already lapsed, the only direction which this court can grant at this juncture is that the authorities concerned should not treat the said impugned order as a disqualification to the petitioner for any future employment in which the petitioner participate. Further, since the same has been issued without any sort of preliminary investigation or enquiry, the same should also not be treated as an order of termination of service so far as the petitioner's contractual appointment is concerned.

7. The petitioner would also be at liberty to approach the authorities concerned for seeking fresh engagement/contractual employment with the respondents and on receipt of such representation, the authorities concerned would take a decision.”

6. The learned counsel for the Appellant submits that the Appellant is constrained to move this Court only because of mis-conception of facts which led to the observation/direction as given in paragraphs 6 and 7. The case of the writ Petitioner that he was never given any opportunity of hearing is not correct. Notices were issued at different points of time and on one instance, he was given 'warning' as well. It was thereafter, that the service was put to an end to, after giving one months' notice, as there was no other alternative. This Court does not find it necessary to go into the merit as to the imputation levelled against the writ Petitioner/Respondent. This is more so, since there cannot be any relief by way of reinstatement; which even otherwise stands rejected by the learned Single Judge. No right is conferred upon the contract employee to continue in service, once the tenure is over.
7. However, with regard to insinuation levelled against the writ Petitioner/Respondent, with reference to indiscipline/misconduct, admittedly no

finding of guilt was arrived at by conducting any enquiry. Hence the contents of the notice, need not and can't continue as a hurdle, casting a stigma with regard to the career of the Respondent herein.

8. In the above circumstances, while declining interference in the appeal, we hold that the reason shown or reference made in the order of termination dated 12.06.2018 with reference to some 'indiscipline/misconduct' on the part of the writ Petitioner will not have any stigmatic effect as to the service/career of the Respondent. It is of course for the Appellant to consider whether the Respondent could be considered for further contractual appointment, if at all there is any vacancy. The Appellant cannot be compelled in this regard as well. With the above observation, both the I.A. for condonation of delay and the appeal stand dismissed.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge