

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 272 of 2020**

(Arising out of order dated 17.06.2019 passed by the learned Single Judge in WPS No.4089 of 2019)

- Kishan Lal Sahu S/o Shri Ramlal Sahu Aged About 44 Years Address - Post Protection Officer, Non - Institutional Womens And Child Development Department Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Address - Through Secretary, Women And Child Development Department, Mahanadi Bhawan, Atal Nagar, Raipur Chhattisgarh.
2. Collector/President District Child Protection Committee, Durg, District-Durg, Chhattisgarh.
3. District Programme Officer Women and Child Development Department, Durg, Address 5 Building Malviya Nagar, Durg, Chhattisgarh.

---- Respondents

For Appellant : Shri Shreyankar Nandy, Advocate
 For Respondents/State : Shri Chandresh Shrivastava, Deputy Advocate General

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****P. R. Ramachandra Menon, CJ.****04.09.2020**

1. This appeal arises from the verdict passed by the learned Single Judge about one year ago on 17.06.2019 in WPS No. 4089 of 2019. The challenge raised in the writ petition against Annexure-P/4 order, putting an end to the contractual engagement of the Appellant / Writ Petitioner, after

payment of one month's salary (in lieu of one month's notice), in conformity with the terms of appointment, was declined to be interfered; which forms the grievance.

2. As mentioned above, the delay in filing the appeal is sought to be condoned by filing I.A. No.1/2020. Considering the adverse situation created because of the COVID-19 Pandemic, we thought it appropriate to consider the merits, if at all any interference is warranted, on condoning the delay.
3. The learned counsel for the Appellant points out that, the Appellant was appointed way back on 20.08.2013 in the post of Protection Officer, Non-Institution on the contractual basis and the yearly contract was renewed from time to time. The last renewal of the contract was made on 07.03.2019 which was valid till 30.08.2019. While so, based on Annexure-A/4 complaint preferred by some unknown person, the Appellant was served with Annexure-A/5 show-cause notice issued on 29.04.2019, asking the Appellant / Writ Petitioner to appear before the Sub-Divisional Officer on 06.05.2019 with the statement of defence. However, the service of the Appellant / Writ Petitioner was abruptly put an end to by the 2nd Respondent as per Annexure-P/4 order of termination passed on 02.05.2019, though he had submitted his statement of defence, as required, vide Annexure-A/7.
4. Incidentally, it is to be noted that even after termination of the contractual engagement, the Respondents proceeded with further steps and statements of the members of Women and Child Development

Department, Durg were recorded, based on which Annexure-A/8 Enquiry Report was submitted by the Sub-Divisional Officer with respect to the complaint preferred against the Appellant / Writ Petitioner. Even though the Appellant / Writ Petitioner has filed Annexure-A/9 representation before the 2nd Respondent to consider his re-employment, no action was pursued, which led to the writ petition.

5. It is the case of the Appellant, as put forth by the learned counsel, that the fundamental principles of natural justice have been thrown to wind, insofar as the termination of service was without considering the reply / statement of defence submitted by the Appellant / Writ Petitioner in response to Annexure-A/5 show-cause notice. No opportunity of hearing was given to the Appellant / Writ Petitioner. As per the Enquiry Report, it was stated that, out of the 04 complaints made against the Writ Petitioner, 03 were not proved and disciplinary action was recommended only in respect of the remaining one. Without pursuing such disciplinary proceedings in terms of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966, the Petitioner was simply terminated from the service on 02.05.2019; which aspect has not been properly appreciated by the learned Single Judge, while declining interference and hence the appeal.
6. Shri Chandresh Shrivastava, the learned counsel representing the State points out that there is no dispute with regard to nature of engagement, which was on contractual basis. The appointment originally given in the year 2013 was renewed from time to time and as per the terms of appointment, it was categorically stipulated that the service of the

employee was liable to be terminated at any time, by serving one month's notice or by payment of one month's salary, in lieu thereof. In the instant case, one month's salary was given to the Appellant/Writ Petitioner, in place of one month's notice and as such, termination of the service as per Annexure-P/4 order passed on 02.05.2019 was quite in order and not assailable. This has been rightly observed by the learned Single Judge in paragraphs 5 to 8, also extracting the relevant paragraph of the appointment order in paragraph 5.

7. After hearing both the sides, this Court finds that there is no dispute with regard to the nature of engagement; which was on 'contract basis', terminable on issuance of one month's notice or by payment of one month's salary, in place of such notice. Admittedly, one month's salary was given to the Appellant / Writ Petitioner in lieu of the notice and as such, the plea set up by the Appellant with reference to the alleged violation of principles of natural justice does not hold good.
8. It is true that, Annexure-A/5 show-cause notice was issued to the Appellant/Writ Petitioner on 29.04.2019, requiring him to appear and submit the statement on defence on 06.05.2019. It is always open for the employer to proceed with appropriate steps, in accordance with law, if any misconduct is made out from the part of the employee, so as to impose appropriate punishments for the misconduct, if proved. At the same time, it is to be noted that, the conditions of service are different from those which are applicable to a regular employee. The appointment order issued to the Appellant/Writ Petitioner, who was engaged on contract basis, clearly stipulates that the service was terminable on giving one

month's notice or by payment of one month's salary, in lieu of the notice as aforesaid. Since this requirement has been satisfied, there cannot be any legally sustainable grievance for the Appellant / Writ Petitioner to have questioned the said order. Since nothing is mentioned in Annexure-P/4 order as to any instance of misconduct on the part of the employee, the order under challenge in the Writ Petition was only a 'termination simplicitor' and it does not cast any 'stigma' on him. This being the position, interference declined by the learned Single Judge is not assailable under any circumstance.

9. Incidentally, it is also to be noted that the last renewal of service of the Appellant was on 07.03.2019, which was valid till 31.08.2019; the appeal itself was sought to be filed with an inordinate delay of 299 days; the verdict having been passed by the learned Single Judge about one year ago. Even otherwise, the claim itself was only to continue till '30.08.2019' and 'one year' is over, even after that date. In the said circumstance, we do not find any tenable ground to interfere.
10. In the above facts and circumstances, the appeal and I.A.No.01/2020 (application seeking to condone the delay) stand dismissed. No costs.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge