

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3169 of 2020**

- Smt. Panchi Jaiswal W/o Shri Mohan Kumar Jaiswal, Aged About 27 Years R/o Ward No. 10, Near T.V. Tower, Pandariya, Post And Police Station - Pandariya, District - Kabirdham Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through - Secretary Department Of Health And Family Welfare, Mantralaya, Mahanadi Bhawan, Atal Nagar, District - Raipur Chhattisgarh
2. Mission Director, National Health Mission, Directorate Health Services, Indravati Bhawan, Atal Nagar, District - Raipur Chhattisgarh
3. Chairman / Collector District Health Society, District - Kabirdham Chhattisgarh
4. Chief Medical And Health Officer, District - Kabirdham, Kabirdham Chhattisgarh

---- Respondents

For Petitioner	:	Shri S.P. Kale, Advocate
For Respondents/State	:	Shri Amrito Das, Addl. AG
For Respondent No.2	:	Shri CJK Rao, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order****17/08/2020**

1. Heard.
2. Learned counsel for the petitioner would submit that the petitioner was initially appointed on the post of 2nd ANM and she has been posted at Primary Health Center, Ramtala, District Kabirdham by order dated 02.03.2019 under the Chhattisgarh Civil Service (Contractual Appointment) Rule, 2012 (for short 'The Rules, 2012'). He would further submit that Rule 11 of the Rules, 2012 purports

that the contract appointment posts mentioned under rule 4(1) the first contract appointment shall be made for a period of three years. He would further submit that the petitioner's appointment was made under rule 4 (1) of the Rules, 2012 and despite that petitioner's services have not been extended and simplicitor termination order was passed without giving any opportunity of hearing to the petitioner on 30.04.2020 (Annexure P-1), which is against the rules. He would further submit that as per the State guidelines, the services of an employee could not have been terminated during the Covid-19 pandemic situation as the directions have been issued by the State, however, despite that the services of the petitioner have been terminated. He would further submit that under the circumstances, at this stage, the representation of the petitioner (Annexure P-4) may be adjudicated and the petitioner may also be permitted to file afresh representation with the relevant documents, if so advised.

3. I have heard learned counsel for the petitioner and perused the documents.
4. Prima facie, reading of the Rule 11 of the Rules, 2012 would show that the appointment made at the first instance would be for three years. The relevant part of the Rule 11 of the Rules, 2012 is reproduced hereinbelow:-

“11. **Period of Appointment.**- (1) On the contract appointment posts mentioned under rule 4 (1), first contract appointment shall be made for a period of three years, however, the State Government may take decision of renewal of contract appointment by extending the period of contract appointment for one year at one time depending on the necessity and after assessing suitability of person appointed on contract.”

5. The appointment of the petitioner was made on 02.03.2019. Annexure P-1 would show that the services of the other likewise employees were extended, however, services of few of the employees were not extended, which includes the petitioner. Considering the fact that when there are directions issued by the

State Government following the orders made by the Central Government and for aiding the implementation of measures laid down under the Disaster Management Act, 2005 that during the global pandemic Covid-19, the services of the employees may not be terminated, therefore, keeping into this fact as well as the Rule 11 of the Rules, 2012, the petitioner is given liberty to file afresh representation before the respondent No.4 within a period of 2 weeks from today. On such representation being filed, the same shall be decided within a period of three weeks from the date of filing of the representation keeping in view the Rule 11 of the Rules, 2012 as well as the direction issued by the State Government under the Act of 2005 (supra).

6. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu