

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

928 WRIT PETITION NO.5062 OF 2017

SULOCHANA DHONDIRAM KAMBLE @ SULOCHANA VIJAY
CHAUTHMAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Kulkarni Abhishek.
AGP for Respondents-State : Mr. A.M.Phule.

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**CORAM : V. K. JADHAV, J.
DATE : 05.02.2020**

PER COURT :-

1. Heard finally with consent at admission stage.
2. The learned counsel for the petitioner submits that the petitioner was appointed on 30.10.1998 by respondent No.3 - the Child Development Project Officer, as a Anganwadi Sevika. The petitioner has worked for more than 18 years as a Anganwadi Sevika. On 21.04.2016, respondent No.3 had issued one show cause notice to the petitioner stating therein that the petitioner has obstructed the Anganwadi Madatnis namely Geeta Mankar from carrying out her daily work in Anganwadi. The petitioner has immediately filed her reply to

the said show cause notice and denied all the allegations made against her. However, on 26.05.2016 respondent No.3 had issued another show cause notice to the petitioner regarding not receiving Take Home Ration (THR) under the scheme. The petitioner has also given her detailed reply and denied all the allegations in the notice along with supportive documents. Thereafter, till 20.05.2016, the petitioner was working in the Anganwadi, however, on 20.05.2016 the petitioner had received the termination letter dated 18.05.2016 issued by respondent No.3 stating therein that the petitioner's services has been terminated with effect from 18.05.2016. Being aggrieved by the said order, the petitioner has approached this Court by filing Writ Petition No.5667 of 2016. By order dated 26.09.2016, the Division Bench of this Court has disposed off the Writ Petition by granting liberty to the petitioner to approach respondent No.2 by filing an appeal. The petitioner has thus approached respondent No.2 by filing an Appeal No.ICD/Anganwadi/KG-7/2016-17. Respondent No.2 by impugned order dated 24.03.2017 dismissed the appeal.

3. The learned counsel for the petitioner submits that though the petitioner has worked as a Anganwadi Sevika for more than 18 years, she was terminated without there being any charge-sheet or any due inquiry. The learned counsel submits that this Court (Coram : Ravindra V. Ghuge, J.) in Writ Petition No.421 of 2014 with Civil Application No.8562 of 2014 in the identical facts by referring the judgments of the Apex Court in case of *(i) Radhey Sham Gupta Vs. U.P State [(1992) 2 SCC 21]*, *(ii) Dipti Prakash Bannerjee Vs. Satvendra Nath Bose National [(AIR) 1999 SC 983]* and *(iii) Chandra Prakash Shahi Vs. State of U.P [(2000) 5 SCC 152]*, wherein the Supreme Court held that if the termination without departmental inquiry founded on charges of mis-conduct and if the order of termination indicates the charges and reasons for termination, it shall amount to a stigmatic termination which is impermissible, quashed and set aside the order of termination of the Anganwadi Sevika, reinstated the petitioner in the said case with continuity and with 50 % of the back wages with liberty to the employer, if so desired, to follow the due procedure for proving the charges against the petitioner. The learned counsel submits that the ratio laid down by this Court

in the aforesaid Writ Petition No.421 of 2014 in terms of the ratio laid down by the Apex Court is squarely applicable to the facts and circumstances of the present case.

4. The learned AGP appearing for the respondent has fairly conceded that the ratio laid down by this Court in the aforesaid Writ Petition No.421 of 2014 is squarely applicable to the facts and circumstances of the present case, however, submits that there are serious allegations about the conduct of the petitioner on various occasions and even at one incident the Madatnis Geeta Mankar has lodged the complaint in the Police Station and on the basis of her complaint, the N.C. came to be registered against the petitioner in the Police Station. The learned AGP submits that the petition on this count alone is liable to be dismissed, however, in the alternate the learned AGP submits that in the given set of facts and circumstances, it is to be held that the petitioner is not entitled for back wages.

5. On going through the judgment and order passed in Writ Petition No.421 of 2014 by this Court (Coram : Ravindra V. Ghuge, J.) by relying upon the ratio laid down by the Apex Court in aforesaid three cases *(i) Radhey Sham Gupta Vs. U.P*

State [(1992) 2 SCC 21], (ii) Dipti Prakash Bannerjee Vs. Satvendra Nath Bose National [(AIR) 1999 SC 983] and (iii) Chandra Prakash Shahi Vs. State of U.P [(2000) 5 SCC 152], it appears that the issue raised in this Writ Petition is squarely covered. The learned counsel for the petitioner has pointed out that this view is also accepted by the Nagpur Bench in Writ petition No.45 of 2017, disposed on 30.11.2018.

6. In view of the same, this Writ Petition deserves to be allowed in terms of the aforesaid order passed by this Court in Writ Petition No.421 of 2014, however, even if she is reinstated in service with continuity, in the peculiar facts of the case, she is entitled only 25 % of the back wages.

7. The learned counsel for the petitioner, on instructions, also accepted that the petitioner may be paid 25 % of the back wages.

8. In the light of the above, the impugned order passed by respondent No.3 dated 18.05.2016 confirmed by respondent No.2 by order dated 24.03.2017 are hereby quashed and set aside. The petitioner is reinstated in service with effect from 21.05.2016 with continuity and with 25 % of the back wages.

9. The respondents are at liberty to follow the due procedure for proving the charges against the petitioner, if so desired.

10. Writ Petition is accordingly disposed off.

(V. K. JADHAV, J.)

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vmk/-