

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.15 of 2011

Bhupindra Singh, Aged about 40 years, S/o Shri Satya Prakash Singh,
Earlier posted as Shiksha Karmi Grade-III at Govt. Primary School,
Gram Barkela, Post & Tehsil Manendragarh, District Koriya, R/o
Purani Basti, Ward No.5, Manendragarh, District Koriya (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through Principal Secretary, Panchayat and Rural Development Department, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. Collector, District Koriya (C.G.)
3. Additional Collector, District Koriya (C.G.)
4. Chief Executive Officer, Zila Panchayat, Manendragarh, District Koriya (C.G.)
5. Chief Executive Officer, Janpad Panchayat, Manendragarh, District Koriya (C.G.)

---- Respondents

For Petitioner: Ms. Diksha Gouraha, Advocate.

For Respondents No.1 to 3 / State: -

Mr. Ravi Kumar Bhagat, Deputy Govt. Advocate.

For Respondents No.4 and 5: -

Ms. Prakritee Jain, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

30/07/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner herein calls in question legality, validity and correctness of the order dated 16-12-2010 by which the petitioner's services on the post of Shiksha Karmi Grade-III have been terminated.
3. Ms. Diksha Gouraha, learned counsel appearing for the petitioner,

would submit that the petitioner was appointed on the post of Shiksha Karmi Grade-III on 17-6-2005 (Annexure P-2) and thereafter, his services were regularised by order dated 5-6-2010 (Annexure P-3) on the vacant post of Shiksha Karmi Grade-III after completing the period of probation in the pay-scale of ₹ 3,800-100-5,800/-, but by the impugned order dated 16-12-2010 (Annexure P-1), his services have been terminated holding that his domicile certificate has been cancelled by the Sub-Divisional Officer (Revenue), Manendragarh on 14-12-2010. She would further submit that the petitioner at the relevant point of time was regular Shiksha Karmi Grade-III and therefore in accordance with Rule 9 of the Chhattisgarh Panchayat Shiksha Karmis (Recruitment and Conditions of Service) Rules, 1997 (for short, 'the Rules of 1997'), the disciplinary authority would be the General Administration Standing Committee of the Zila Panchayat or Janpad Panchayat, as the case may be and therefore for termination of the petitioner, the competent authority would be the General Administration Standing Committee of the Janpad Panchayat, but the order impugned terminating the services of the petitioner has been passed by the Chief Executive Officer, Janpad Panchayat who is not competent to pass the order. Even otherwise, in accordance with the Chhattisgarh Panchayat Shiksha Karmi (Recruitment and Conditions of Services) Rules, 2007 (for short, 'the Rules of 2007'), which came into force with effect from 30-11-2007, the position remains unaltered and even under Rule 10 of the said Rules of 2007, the General Administrative Standing Committee of the Janpad Panchayat shall be the disciplinary authority for major punishment and therefore the impugned order of termination passed by respondent No.5 – Chief Executive Officer, Janpad Panchayat, Manendragarh is without

jurisdiction and without authority of law and is liable to be set aside.

4. Mr. Ravi Kumar Bhagat, learned State counsel appearing for respondents No.1 to 3, would oppose the writ petition and support the impugned order passed by respondent No.5.
5. Ms. Prakritee Jain, learned counsel appearing for respondents No.4 & 5, would also oppose the writ petition and submit that the petitioner's domicile certificate has been cancelled by order dated 14-12-2010 passed by the Sub-Divisional Officer (Revenue), therefore, his order of appointment has rightly been cancelled by respondent No.5 and it is not the case where after full-fledged departmental enquiry under Rule 9 of the Rules of 1997 or Rule 10 of the Rules of 2007, penalty has been imposed upon the petitioner. Since the petitioner was appointed by the Chief Executive Officer, Janpad Panchayat, Manendragarh – respondent No.5, therefore, he has rightly been terminated by respondent No.5 and as such, the writ petition deserves to be dismissed.
6. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.
7. The petitioner was appointed by order dated 17-6-2005 by the Chief Executive Officer, Janpad Panchayat, Manendragarh on the recommendation of the General Administrative Standing Committee in resolution No.1 dated 5-6-2005, as such, he was appointed by the Chief Executive Officer, Janpad Panchayat, Manendragarh on the due approval of the General Administrative Standing Committee of Janpad Panchayat, Manendragarh, but he has been terminated by the Chief Executive Officer of the Janpad Panchayat without there being any approval of the General Administrative Standing Committee.

8. Now, the question is, whether respondent No.5 was competent to terminate the services of the petitioner.

9. For that, in order to adjudicate the dispute, it would be appropriate to refer to Rule 9 of the Rules of 1997 which came into force on 1-1-1998 and Rule 10 of the Rules of 2007. Rules 9 and 10 of the Rules of 1997 state as follows: -

“9. Discipline and Control:- The Shiksha Karmis shall be under the administrative control of Zila Panchayat or Janpad Panchayat, as the case may be. The General Administration Standing Committee of the Zila Panchayat or Janpad Panchayat, as the case may be, shall be disciplinary authority for major punishment and the Chief Executive Officer of the Panchayat for the minor punishment.

10. Termination.- The Services of a Shiksha Karmi who is not in permanent service shall be liable to termination at any time by one months notice in writing or on payment of one months pay and allowances given either by the Shiksha Karmi to the appointing authority or by the appointing authority to the Shiksha Karmi.”

10. A careful perusal of the aforesaid provisions would show that Shiksha Karmis shall be under the administrative control of Zila Panchayat or Janpad Panchayat, as the case may be, and the General Administrative Standing Committee of Zila Panchayat or Janpad Panchayat, as the case may be, shall be the disciplinary authority for major punishment and CEO of the concerned Panchayat shall be the disciplinary authority for minor punishment. However, with effect from, 30-11-2007, the Rules of 2007 have been brought into force in which Rule 10 is pari materia to Rule 9 of the Rules of 1997. Rule 10 of the Rules of 2007 states as under: -

“10. Discipline and Control.—Shiksha Karmis shall be under the administrative control of Zila Panchayat or Janpad Panchayat as the case may be. The general administrative standing committee of Zila Panchayat or

Janpad Panchayat as the case may be shall be the disciplinary authority for major punishment and CEO of concerned Panchayat shall be the disciplinary authority for minor punishment.”

11. Thus, from the aforesaid Rules, it is quite vivid that disciplinary authority for imposition of major punishment of a regular employee of the Janpad Panchayat would be the General Administrative Standing Committee of the said Janpad Panchayat and the Chief Executive Officer would be the disciplinary authority for imposition of minor punishment.
12. Reverting to the facts of the case in the light of the aforesaid Rules, it is quite vivid that the petitioner was appointed vide Annexure P-2 dated 17-6-2005 by the Chief Executive Officer on the recommendation of the General Administrative Standing Committee of the Janpad Panchayat, but vide Annexure P-1 he has been terminated by the CEO without there being any order by the General Administrative Standing Committee of the Janpad Panchayat who is the appointing authority of the petitioner only on the basis of recommendation by the Sub-Divisional Officer (Revenue), Manendragarh on 14-12-2010. Since the petitioner was regular employee of the Janpad Panchayat working as Shiksha Karmi Grade-III, his services could have been terminated only by the General Administrative Standing Committee of the Janpad Panchayat and the CEO has no power and jurisdiction to terminate the services of the petitioner, as he is only empowered to impose minor punishment by Rule 9 of the Rules of 1997 and Rule 10 of the Rules of 2007. As such, the impugned order passed by respondent No.5 terminating the services of the petitioner is without jurisdiction and without authority of law.

13. The argument of learned counsel appearing for respondents No.4 & 5 is that it is not imposition of major penalty, but appointment order of the petitioner Annexure P-2 dated 17-6-2005 has been cancelled, therefore, respondent No.5 was competent to pass the order dated 16-12-2010 terminating the services of the petitioner.
14. This argument is noted for rejection for two reasons, firstly, the petitioner was appointed on the recommendation of the General Administrative Standing Committee of the Janpad Panchayat on 17-6-2005 and secondly, the petitioner stood regularised on the post of Shiksha Karmi Grade-III after completing the period of probation of three years by order dated 5-6-2010. As such, the services of a regular employee working on the post of Shiksha Karmi Grade-III could not have been terminated without holding any departmental enquiry in accordance with law for imposing punishment that too major punishment.
15. Thus, on the basis of the aforesaid analysis, the impugned order dated 16-12-2010 passed by respondent No.5 deserves to be and is hereby set aside. The petitioner is entitled for reinstatement on the post of Shiksha Karmi Grade-III with all consequential benefits except full back-wages and allowances. The question of full back-wages and allowances shall be considered by the competent authority in accordance with Rule 54 of the Fundamental Rules within 60 days from the date of receipt of a copy of this order.
16. The writ petition is allowed to the extent indicated herein-above. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge