

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.981 of 2017 (O&M)

Date of Decision:17.08.2023

Rani Devi

...Petitioner

Vs

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amit Jhanji, Senior Advocate with
Mr. Avinit Avashti, Advocate
Mr. Sandeep Lather, Advocate
for the petitioner.

Mr. Parminder Singh Kanwar, Senior Panel Counsel
for UOI.

Mr. Pankaj Midha, Addl. A.G., Haryana.

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HARSIMRAN SINGH SETHI J. (ORAL)

C.M. No.13273-CWP of 2023

Application is allowed.

Annexures P-16 to P-18 are taken on record.

CWP No.981 of 2017

1. The present petition has been filed challenging the order dated 29.12.2016 (Annexure P-14) by which services of the petitioner, who was working as an Anganwari Worker, have been terminated. Certain facts leading to the filing of the present petition are as under:-

2. On 05.09.1990, petitioner was appointed as an Anganwari Worker at Village Bhongra, Block Uchana, District Jind. The petitioner continued working on the said post for a period of 26 years when she received a show cause notice on 14.07.2016 seeking explanation of certain facts related to the working of the petitioner as an Anganwari Worker qua samples of wheat, which were taken

during the course of inspection done by an officer of Secret Service Department, which were found to be substandard and even the food items prepared were not upto the mark.

3. On 18.07.2016, keeping in view various complaints received qua irregular working of the petitioner as an Anganwari Worker, the Additional Deputy Commissioner, Jind inspected premises again and found that the allegations as alleged in the complaint were correct. Another show cause notice was issued to the petitioner so as to reply to the findings of the Additional Deputy Commissioner in his inspection dated 18.07.2016.

4. Keeping in view the irregularities found, the charge of the centre where the petitioner was working as an Anganwari Worker was taken from her. The petitioner filed a reply defending herself that irregularities being pointed out in her working are incorrect and allegations that the stock was less, quality of wheat and rice was substandard, eatable items such as sugar, panjiri were lying on the floor and even the mat where the children were made to sit was unclean, were denied by the petitioner.

5. Keeping in view the reply filed, respondents conducted an enquiry into the allegations by giving notice to everyone and ultimately, an order was passed by respondent No.4 on 29.12.2016 terminating the services of the petitioner. The said order is under challenge in the present petition.

6. Learned counsel for the petitioner argues that in the present case, the action has been taken against the petitioner without giving her any opportunity to defend the allegations levelled against her, hence, the order passed by the respondents terminating her services violates the principles of natural justice and the same is liable to be set aside on the said ground.

7. Learned State counsel submits that the action has been taken against the petitioner after giving her due opportunity to defend herself against the allegations made, and even in the inspection of the premises by the Additional Deputy Commissioner, the working of the petitioner was found much below the required standards and further, the petitioner was given due opportunity to defend herself and in the proceedings, which were held on 23.08.2016, the petitioner accepted her shortcoming and prayed for another chance to be given to her, hence, it cannot be said that the petitioner was not given any opportunity to defend herself before passing the impugned order.

8. Learned State counsel further submits that there is no civil post of Anganwari Worker as the Anganwari Workers are not being paid salary but an honorarium. Keeping in view the factum, which had come on record, where the petitioner herself conceded her mistakes, services of the petitioner were terminated, hence, prayer of the petitioner for setting aside impugned order may kindly be rejected and the present writ petition may kindly be dismissed.

9. I have heard learned counsel for the parties and have gone through the record with their able assistance.

10. It may be noticed that Anganwani Worker is a social post for which only honorarium is to be paid. It is not a civil post for which salary is paid. Keeping in view the said facts in mind, the claim of the petitioner needs to be considered as to whether the impugned order terminating services of petitioner is valid or not.

11. It has come on record that the petitioner was given show cause notice more than once with regard to performance of her work and it is also matter of record that keeping in view the complaint received qua working of the petitioner, the Additional Deputy Commissioner inspected the premises where the petitioner

used to discharge her duties wherein certain shortcomings were found with regard to maintenance of food stock as well as maintenance of the premises and the upkeep of the food prepared for distribution of the children.

12. Further, as per the report of the Additional Deputy Commissioner dated 23.08.2016, copy of which has been appended as Annexure R-4, the matter was enquired after giving due opportunity of hearing to all, including the petitioner, Supervisor, Women and Child Development Project Officer concerned as well as the Sarpanch of the village where the said anganwari centre was being run. As per the said report, the petitioner prayed for forgiveness of her mistakes. That being so once the petitioner had accepted her mistake it was obligatory upon the respondents to take appropriate action against the petitioner.

13. It is not a case where the action has been taken without informing the petitioner about the reasons for termination of her services, rather in the present case, show cause notice had been given to the petitioner twice and even the enquiry was conducted by associating the petitioner, wherein the petitioner accepted the allegations alleged against her and sought forgiveness. In these circumstances, once the allegations stand conceded by the petitioner, it cannot be said that action taken by the respondents for terminating her services is bad in any manner.

14. At this stage, learned counsel appearing for the petitioner submits that no decision could have been taken by the respondents on the basis of the proceedings, which took place on 23.08.2016, as the same were inconclusive, hence, the order passed terminating the services of the petitioner is bad.

15. It may be noticed that though, in the order, the proceedings were adjourned but it is a matter of fact that the petitioner conceded her mistakes before the authorities concerned and sought forgiveness. Once the petitioner accepted the

allegations on 23.08.2016, no further proceedings were required to be undertaken and the respondents were within jurisdiction to pass any order, hence, grievance of the petitioner that she was not given opportunity of hearing before passing of the order of termination, will be of no avail in the facts and circumstances of the present case.

16. Learned counsel appearing for the petitioner further submits that with regard to factum recorded in the order dated 23.08.2016 that the petitioner had accepted her mistake and sought forgiveness, no such document has been brought on record.

17. It may be noticed that the petitioner is not an employee of the Government of Haryana but only a social worker, who is being paid honorarium. Annexure R-4, which describes that the proceeding dated 23.08.2016, which has been appended with the reply, has gone unrebutted and the petitioner did not rebut the same to prove that there was no written forgiveness sought by the petitioner. Keeping in view the record available before this Court, as per Annexure R-4, petitioner had sought forgiveness for her mistakes, meaning thereby, she accepted the allegation, hence, in the absence of any rebuttal to the Annexure R-4 and the written statement, the said argument of counsel for the petitioner cannot be accepted.

18. No other argument was made.

19. No ground is made out for interference by this Court.

20. Dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

August 17, 2023

Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No