

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12608 OF 2024

Punam Shashikant Pomendkar

....Petitioner

V/S

Chief Executive Officer,
Jilha Parishad, Ratnagiri & Anr.

....Respondents

Mr. Sachinkumar Rajepandhare for *the Petitioner*.

**CORAM: SANDEEP V. MARNE, J.
DATE : 18 OCTOBER 2024.**

P.C.:

1. Petitioner has filed this Petition challenging Award dated 31 October 2023 passed by Labour Court, Ratnagiri, answering Reference (IDA) No.3 of 2017 in the negative. The Reference was made in connection with reinstatement of Petitioner in service with continuity and back-wages.

2. Petitioner claims to have functioned as Balwadi Sevika during 2001 to 2008. She came to be selected and appointed as Anganwadi Sevika under the Integrated Child Development Services Scheme by order dated 13 October 2018 in respect of village Golawali Tappa, Taluka Sangameshwar, District Ratnagiri. She joined the post on 20 October 2008. It appears that a complaint was made against Petitioner on 28 October 2013 by several villagers of Kinjalkarwadi, Loharwadi, Bhuvadwadi and Gopalwadi

against conduct of Petitioner. It appears that Deputy Chief Executive Officer (Child Development), Zilla Parishad, Ratnagiri and Chairman of Human and Child Welfare Department visited the Anganwadi of Golvali Tappa on 7 January 2014 and investigated complaint filed against Petitioner. Enquiry was conducted in respect of six allegations against her and report to that effect was submitted to Child Development Project Officer, Project Sangameshwar (Devrukh), who issued show-cause notice dated 8 July 2014 calling upon Petitioner to explain two out the six allegations relating to (i) rude behaviour with office bearers and villagers and giving them insulting treatment and (ii) misappropriation in providing nutritional food. Petitioner was asked to show-cause why Rs. 5,416/- towards amount claimed in respect of four children should not be recovered from her. Petitioner submitted her Reply to the said show-cause notice. The Child Development Project Officer issued order dated 10 April 2015 holding that both the charges levelled against Petitioner were proved and directed recovery of amount of Rs.5,416/- from honorarium of Petitioner in two installments. The order gave time of two months to Petitioner to improve and further stating that if any further complaint was received against her, proposal for her termination would be sent to District level.

3. It appears that on 8 May 2015, Petitioner was issued letter stating that she was directed to handover charge of Anganwadi at Golwali Tappa to Anganwadi Madatnis and she failed to do so.

Upon making enquiries on 8 May 2015, she misbehaved with Child Development Project Officer. Petitioner was directed to handover all the articles to Anganwadi Madatnis failing which deduction was to be made from her honorarium. On 8 May 2015, another show-cause notice was issued in respect of absence on 6 May 2015 and 7 May 2015. Petitioner replied to show cause notice. On 22 May 2015 Petitioner was informed that a proposal was being forwarded to higher office for termination of her services by referring to her misconduct of 19 May 2015 when she brought her relatives to the office of the Child Development Project Officer, who questioned the officer about non-grant of leave and misbehaved and threatened him. Finally, by order dated 5 July 2015, Petitioner was terminated from service. Petitioner preferred Appeal dated 28 July 2015 against the termination order. It appears that Chief Executive Officer, Zilla Parishad, Ratnagiri gave personal hearing to the Petitioner on 18 July 2016 and proceeded to reject her Appeal.

4. Petitioner filed representation before Conciliation Officer on 31 January 2017. After failure of conciliation proceedings, the Additional Commissioner (Labour) passed order dated 10 October 2017 referring the dispute to the Labour Court, Ratnagiri relating to reinstatement of Petitioner with effect from 1 July 2015 with continuity and back-wages. The Labour Court has proceeded to answer the Reference in the negative by impugned Award dated 31 October 2023, which is subject matter of challenge in the present Petition.

5. I have heard Mr. Rajepandhare, the learned counsel appearing for Petitioner. His main contention is about non-conduct of disciplinary enquiry against Petitioner before terminating her services. That Petitioner was already punished in respect of the show-cause notice dated 8 July 2014 by recovering amount of Rs.5,416/- and the very same incident is once again used for illegally terminating her on 1 July 2015. He would submit that Petitioner has not been provided with copy of the enquiry report referred in the letter dated 8 July 2014 and that therefore termination of her services is in breach of principles of natural justice. That Petitioner had repeatedly complained to Sarpanch, Gram Sevak, President of Village Education Committee and Zilla Parishad Primary School Management Committee for repair of roof at the courtyard of the School which was in dilapidated condition and because of addressing of repeated complaints, she has been targeted and unceremoniously thrown out of service. He would therefore pray for setting aside the impugned Award of the Labour Court. Mr. Rajepandhare had relied upon judgment of this Court in ***Deputy Chief Executive Officer (Child Welfare), Ahmednagar and Anr. vs. Smt. Ratan Eknath Gund***, 2015 (6) ALL MR 680.

6. So far as grievance of Petitioner about non-conduct of regular departmental enquiry is concerned, in my view, Petitioner is not a regular government servant governed by any particular Rules or Regulations. She was engaged as Anganwadi Sevika in a project on a fixed honorarium. Condition No. 5 of her engagement order

permitted the Child Development Project Officer to terminate her services without prior notice after noticing unsatisfactory performance. Perusal of the Award of the Labour Court would indicate that the Court has relied upon provisions of Government Resolution dated 12 April 2007 dealing with following of procedure for termination of services of Anganwadi Sevika. As per the said Government Resolution, a show cause notice is required to be given and in the event, it is found that the Anganwadi Sevika has committed any deliberate misconduct, she should be given one opportunity for improvement. The Government Resolution further provides that if no improvement in work is noticed or if the explanation submitted by Anganwadi Sevika is not found acceptable, Child Development Project Officer can discharge such employee on honorarium. In the present case, the prescribed procedure of Government Resolution dated 12 April 2007 appears to have been followed to the hilt. Petitioner was issued a show-cause notice dated 8 July 2014. She submitted Reply to the same. After considering her Reply, though the two allegations were found to be proved, the Child Development Project Officer merely ordered recovery from the honorarium but continued her services by granting her an opportunity to improve. However, during the gap period from 10 April 2015 till her termination on 1 July 2015, Petitioner's behaviour was found to be objectionable on three different occasions. On 8 May 2015, she misbehaved with Child Development Project Officer when being enquired upon failure to handover all the articles under the dead stock register to

Anganwadi Madatnis. She remained unauthorizedly absence from 6 May 2015 to 7 May 2015 for which notice dated 8 May 2015 was issued. On 19 May 2015 she entered the office of the Child Development Project Officer alongwith her relatives and her relatives misbehaved with the Officer and even threatened him. These repeated misconducts committed by Petitioner left no other alterative for the Child Development Project Officer but to terminate her services. After she was terminated, she has exhausted the remedy of Appeal before the Chief Executive Officer of Zilla Parishad, who gave her personal hearing. In that view of the matter, it cannot be stated that termination of Petitioner is effected in violation of principles of natural justice.

7. The grievance sought to be raised about non-supply of report of enquiry referred to in show-cause notice dated 8 July 2014 is clearly after thought. Petitioner filed a detailed Reply to the show cause notice dated 8 July 2014 without making any grievance about non-supply of report of enquiry. It is only after order dated 10 April 2015 was passed, she submitted letter dated 21 April 2015 demanding copy of report of enquiry.

8. Reliance by Mr. Rajepandhare on judgment of this Court in ***Ratan Ekanth Gund*** (supra) does not cut any ice. The said judgment is sought to be relied upon in support of the contention that Anganwadi Sevika comes under definition of the term

‘workman’ under section 2(s) of the Industrial Disputes Act and Integrated Child Development Scheme falls under the definition of the term ‘Industry’ under section 2(j) of the Act. However, the facts in the case of ***Ratan Ekanth Gund*** (supra) are totally distinguishable. In that case, Anganwadi Sevika was terminated merely on the basis of Complaint by villagers without affording any opportunity of defence. In the present case, after receipt of Complaint from villagers, two officials visited Anganwadi of Golwali Tappa on 7 January 2014 and reported the matter to Child Development Project Officer. Though six allegations were levelled against her in the Complaint, the committee absolved her in respect of four charges and the Child Development Project Officer issued show cause notice to her in respect of only two charges. She was given full opportunity of defending herself in respect of the said two charges. Petitioner submitted detailed reply in respect of both the charges. She was not immediately terminated but was subjected to mere recovery of misappropriated amount of Rs. 5,416/- Though both the charges were held to be proved, she was given opportunity to improve herself. However, she committed three further acts of misconducts of (i) misbehavior with Child Development Project Officer on 8 May 2015, (ii) remaining unauthorizedly absent on 6 and 7 May 2015 and (iii) threatening the Child Development Project Officer by bringing her relatives in his office on 19 May 2015. This left no other option for the Child Development Project Officer but to terminate Petitioner’s services.

9. Thus this is not a case where services of Petitioner are terminated at the whims and caprices of the villagers. She has been given full opportunity in respect of allegations made against her. The Chief Executive Officer of Zilla Parishad has also given her personal hearing to find out truth in her defence. It must be borne in mind that Petitioner is not a regular government servant governed by the provisions of Maharashtra State Civil Services (Discipline and Appeal) Rules, 1979. She is engaged merely on honorarium basis. Therefore, it was not necessary to conduct regular departmental enquiry in accordance with the provisions of MCS (D&A) Rules, against her. What is required to be done is affording of reasonable opportunity of being heard, which appears to have been fully offered to her. Petitioner was made known the exact charges that she faced and was given opportunity to submit her explanation. Though the villagers had complained about her various acts, she was absolved by the Child Development Project Officer in respect of four charges and her explanation was called in respect of only 2 charges. She gave detailed explanation about the said 2 charges. Despite being found guilty of misappropriation, she was given chance to improve. Finally, she was terminated when it was observed that there was no improvement in her conduct and behavior. If there was any error in the termination order passed by the Child Development Project Officer, she was given personal hearing by the CEO of Zilha Parishad at appellate stage. I therefore, do not find any infraction of principles of natural justice in the present case so as to warrant interference in the findings recorded by the Labour Court.

10. What is glaring in the present case is that Petitioner is found

guilty of pocketing amounts meant for nutritional meals by artificially inflating number of children. It has come out that the *Mahila Bachat Gat* (Women Self Help Group) who was supplying the nutritional meals to the children of Anganwadi was being operated by mother and sister of Petitioner. This is how the funds meant for providing free nutritional meals to the children were being swindled by the family members of Petitioner by misuse of the post. Considering the peculiar facts of the case, this Court is not inclined to exercise extraordinary jurisdiction under Article 227 of Constitution of India by interfering in the termination order on a specious ground that a detailed departmental enquiry by examination and cross examination of witnesses is not held in the present case.

11. Considering the overall conspectus of the case, I am of the view that the Award passed by the Labour Court is unexceptionable. Writ Petition, being devoid of merits, is **dismissed** without any orders as to costs.

(SANDEEP V. MARNE, J.)

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SUDARSHAN
RAJALINGAM
KATKAM
Date:
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