IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VISHAL DHAGAT

ON THE 9th OF NOVEMBER, 2022

WRIT PETITION No. 1276 of 2012

BETWEEN:-

EKNATH GAWANDE S/O SHRI PUNJAB RAO GAWANDE, AGED ABOUT 40 YEARS, R/o VILL. PRABHAT PATTAN TEH. MULTAI, DISTRICT BETUL (MADHYA PRADESH).

.....PETITIONER

(BY SHRI SANTOSH KUMAR MESHRAM, ADVOCATE)

AND

1. **SECRETARY THE STATE OF MADHYA PRADESH ADIM JATIYA KALYAN SATPURA BHAWAN BHOPAL (MADHYA PRADESH).**

2. **COMMISSIONER ADIVASI VIKAS MADHYA PRADESH, BHOPAL. (MADHYA PRADESH).**

3. **ASSISTANT COMMISSIONER ADIVASI VIKAS, BETUL DISTT. BETUL (MADHYA PRADESH).**

4. **COLLECTOR (ADIM JATI KALYAN) BETUL, DISTT. BETUL (MADHYA PRADESH).**

5. **DIVISIONAL COORDINATOR ADIM JATI KALYAN MULTAI, DISTT. BETUL (MADHYA PRADESH).**

6. **SUPERINTENDENT, PRE METRIC ADIVASI BALAK ASHRAM TAH. MULTAI, DISTT. BETUL (MADHYA PRADESH).**

.....RESPONDENTS

(BY SHRI MANAS MANI VERMA, GOVERNMENT ADVOCATE)

This petition coming on for hearing this day, the court passed the following:

ORDER

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Petitioner has filed this petition under Article 226 of the Constitution of India challenging order dated 06.01.2012, by which petitioner's services were terminated.

Counsel appearing for the petitioner submitted that an inspection was carried out in Pre Metric Adivasi Hostel, Dunawa on 02.11.2011. On inspection, it was found that there was no cleanliness in the hostel and petitioner was negligent towards his duties. Petitioner was given warning and told to improve his working. Again second inspection was conducted on 21.12.201. In second inspection also, no improvement was shown by petitioner and condition of hostel was bad and petitioner was negligent towards his duties. In these circumstances, services of petitioner were terminated. It was mentioned in the impugned order that petitioner was daily wager employee. Counsel appearing for the petitioner submitted that petitioner has been regularized vide order date 10.07.1994 on post of Khalasi in pay scale of 750-12-870-15-945. As petitioner was a regular employee and working as Khalasi, therefore, petitioner ought to have been given an opportunity of hearing before termination of his services. No opportunity of hearing was provided to petitioner.

Government Advocate appearing for the respondents / State opposed the prayer and submitted that petitioner was never regularized. Petitioner was daily wager employee and his services were temporary in nature. Since petitioner was not regularized and he was a daily wager employee and his services were not required, therefore, he was not engaged after passing of order dated 06.01.2012. In these circumstance, petition be dismissed.

Heard the counsel for the parties.

On going through order dated 10.07.1994, it is found that petitioner was given posting as Khalasi in pay scale of 750-12-870-15-945. Said order reflects

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that petitioner was given salary in graded pay scale and he was regularized. In these circumstances, respondents ought to have given a show cause notice and opportunity of hearing to petitioner before passing impugned order of termination.

Considering aforesaid facts and circumstances of the case, writ petition filed by petitioner is **allowed.** Impugned order dated 06.01.2012 is set aside. Petitioner is entitled to get all consequential benefits.

C.C. as per rules.

(VISHAL DHAGAT)
JUDGE

vkt

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