



2024:CGHC:49250

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4689 of 2019

1 - Dev Singh Parmar S/o Shri Siv Kumar Parmar Aged About 29 Years R/o Village Darvaja, Janpad Panchayat Lormi, Tahsil Lormi, District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

... Petitioner(s)

Versus

1 - State Of Chhattisgarh Through Secretary, Panchayat And Gramin Vikas Vibhag, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya Raipur, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

2 - Collector Mungeli, District Mungeli Chhattisgarh.

3 - Chief Executive Officer Janpad Panchayat Lormi, District Mungeli Chhattisgarh.

4 - Chief Executive Officer Zila Panchayat, Mungeli, District Mungeli Chhattisgarh.

5 - District Program Officer Mungeli, Dharampura, Zila Panchayat, Mungeli, District Mungeli Chhattisgarh.

... Respondent(s)

For Petitioner(s) : Mr. Pallav Mishra, Advocate

For Respondents No. : Mr. Ritesh Giri, Panel Lawyer

1, 2 & 5

For Respondent No. 3 : Dr. Shiv Kumar Shrivastava, Advocate on behalf of Mr. Ravish Verma, Advocate

SB: Hon'ble Shri Parth Prateem Sahu, Judge

ORDER ON BOARD

13/12/2024

1. None for the Respondent No. 4 though served. Office report shows that the Respondent No. 4 was served and the acknowledgment is also kept

on record along with this petition. However, there is no representation on its behalf. The acknowledgment is dated 18.06.2024.

2. The petitioner has filed this writ petition seeking following reliefs:-

“10.1 That, the Hon’ble Court may kindly be pleased to call for the entire records pertaining to the present case.

10.2 The Hon’ble Court may kindly be pleased to direct the respondent authorities to take joining the petitioner on the post of Rojgar Sahayak at Gram Panchayat Darwaja, Janpad Panchayat Lormi, District – Mungeli (C.G.).

10.3 That, this Hon’ble Court may kindly be pleased to quash the discontinuing of the petitioner’s employment as Rojgar Sahayak and further direct to the Chief Executive Officer, Janpad Panchayat Lormi, District – Mungeli (C.G.) to grant the permission for work to the petitioner as a Rojgar Sahayak.

10.4 That, this Hon’ble Court may further be pleased to pass any other order in favour of the petitioner as it may deem fit and proper under the facts and circumstances of the case with cost.”

3. Learned counsel for the petitioners submit that the petitioner was appointed on the post of Rojgar Sahayak vide order dated 02.07.2007 (Annexure P/1) and was posted at Village Panchayat Darwaja, Janpad Panchayat Lormi, District – Mungeli. He contended that though the appointment of the petitioner was on contract for a period of one year, however, the period of contract was extended time to time and he continuously worked till the year 2017 and thereafter, his period of appointment was not renewed/extended without assigning any reason. Petitioner thereafter, approached the authorities on many occasions, seeking the reason for non-extension of the period of service upon which, the Respondent No. 4 vide letter dated 12.02.2019 (Annexure P/2) informed the petitioner that he remained absent from his service. He also remained absent from the meetings, not

submitted the muster roll within the time specified and the entries of the Aadhar Number has not been completely made by him.

4. It is the contention of the counsel for the petitioner that the petitioner came to know about the reasons assigned for non-extension of the period of service only on 12.10.2019. The petitioner was not given the copies of the ACRs of each year for which he has worked with the respondents, nor he was intimated in any manner by writing a letter stating that his work is not satisfactory and all of a sudden, the decision was taken not to extend the period of service of the petitioner on which, he has worked for about 10 years continuously.
5. He contended that the non-extension of the period of service, on the adverse reasons is having civil consequences and therefore, no such decision could have been taken by the respondents without following the due procedure of law of issuing show-cause notice seeking reply on the allegations as reflecting from letter dated 12.02.2019 (Annexure P/2) and therefore, the action taken by the Respondent No. 4 of not renewing the service of the petitioner is bad in law.
6. On the other hand, learned counsel for the Respondent/State thought supports the impugned order, however, he submits that the appointment is made by the Respondent No. 4 and the decision of non-continuation is also made by the Respondent No. 4 for whom, he is not appearing.
7. Learned counsel for the Respondent No. 3 would submit that the decision is taken by the Respondent No. 4. He contended that

earlier, show-cause notice dated 29.06.2016 was issued to the petitioner to which, he replied and therefore, there is substantial compliance of the principles of natural justice and the grounds raised is not available to him. However, upon asking with respect to service of notice upon the petitioner whether any document has been filed in this regard, he fairly submits that along with the reply, notice and other documents showing that these documents have been served upon the petitioner is not available. Upon asking, he submits that there is no specific pleading that the adverse remarks or the copy of the ACRs have been served upon the petitioner during the period of service. He contended that the appointment of the Rozgar Sahayak is governed by the Chhattisgarh Civil Services (Contract Appointment) Rules, 2012 (*hereinafter for brevity referred to as the Rules, 2015*) and pressed into Rule 15 of the Rules, 2012 in support of his contention.

8. I have heard learned counsel for the parties and perused the documents placed on record.
9. From the arguments raised by the learned counsel for the parties, it is apparent that specific order of removing the petitioner was not issued/served upon him. However, after completion of the period of 01 year, the period of service is not extended further from the year 2017. On the said date, petitioner has continuously served his services though on contract basis which was extended time to time from 2008 to 2017. It is also appearing from letter dated 12.02.2019 (Annexure P/2) that, when petitioner approached the authorities asking for reasons as to why his service is not being continued, letter dated 12.02.2019 was issued mentioning absence of the petitioner from his service, absence from the

meetings, non-submission of muster roll within time and not making 100% entries of the Aadhar Number and further, it mentions that the show-cause notice was not replied.

10.As argued by learned counsel for the respondents, contract appointment of the petitioner on the date of discontinuation of service is governed by Rules, 2012. Rule 15 of the Rules, 2012 deals with other conditions. Rule 15 (3) provides for preparation of Confidential Report/Performance Appraisal Report (P.A.R.) of a person appointed in contract to be considered for extending the contract period. Rule 15 (3) is extracted below for ready reference:-

“15 [(3) Confidential Report/P.A.R. (Performance Appraisal Report) of the person, appointed on contract basis, shall be recorded and for extending the period of contractual service, it is mandatory that his/her's Confidential Report/P.A.R. (Performance Appraisal Report) is assessed as Excellent or Very Good, in case he/she is to be considered for further appointment on contract basis.]”.

11.As discussed above, the Respondent No. 2 has not placed on record any document to show that the show-cause notice which is filed herewith as ANNEXURE R-3/1 is served upon the petitioner and within the prescribed period thereafter, he failed to submit his reply. Respondent No. 4 even after service of notice has not caused his appearance. In the aforementioned facts of the case, Respondent No. 4 failed to prove that the show-cause notice which is filed herewith as ANNEXURE R-3/1 was served upon the petitioner. In absence of service of notice, it cannot be presumed that the petitioner even after service of the show-cause notice have not submitted reply to the show-cause notice deliberately.

12.Division Bench of this Court in the case of ***Humendra Kumar Pawade Vs State of Chhattisgarh & Ors. in Writ Appeal No. 813/2018*** has observed thus:-

“4. After hearing learned counsel for the parties, we are convinced that the order of discontinuation of contract appointment of the appellant deserves to be quashed for the reason that Rule 15 (3) of the Rules, 2012 itself provides that confidential report of the person, appointed on contract, shall be recorded so that his work may be assessed in case he is to be considered for appointment on contract basis for the next year and for such continuation the ACR/PAR should be 'excellent' or 'very good'. Once the Rule itself provides that the ACR or PAR would form the basis for according benefit of extension of contract employment it goes without saying that a contract employee has a right to represent against the ACR which may work adverse to his interest if the same is not of required standard as laid down under Rule 15 (3) of the Rules, 2012. Even if contract employee is not entitled to hold the post, if the Rules itself provide for consideration of ACR or PAR as a measure to assess the suitability, the law laid down by the Supreme Court in Dev Dutt (supra) would apply with full force for the reason that if an employee is entitled to any benefit out of the ACR or PAR the same has to be communicated without which it cannot be considered against the employee.

6. It is also to bear in mind that the Supreme Court has settled, in 'n' number of cases that when an authority takes a decision which may have civil consequences and affects the rights of a person, the principles of natural justice would at once come into play. (See: **State of Maharashtra v Public Concern for Governance Trust and Others**).”

13. From the aforementioned facts and perusal of Rule 15 of the Rules, 2012, it is appearing that it was mandatory upon the respondents to write the ACRs which can be considered for extending the period of contract and evaluation of the services/work done by the petitioner. In the present case, the respondents have not brought on record that the petitioner was supplied the copy of ACRs time to time of each year. The order of non-extension of his services is having the civil consequences, more so, when the non-extension is on the ground of leveling of allegations against the petitioner of negligence in discharging his services and remaining absent from service.

14. Taking into consideration the facts and circumstances of the case and the decisions as discussed above, in the opinion of this Court, Respondent

No. 4 erred in not extending the period of service of the petitioner without giving him an opportunity of hearing and therefore, the letter dated 12.02.2019 (Annexure P/2) **is quashed**. However, liberty is reserved with the Respondent No. 3 & 4 to take appropriate steps in accordance with law and further, to take decision for the continuation of services of the petitioner.

15. With the aforementioned observation and direction, writ petition is **allowed**.

Sd/-
(Parth Prateem Sahu)
Judge

Dey