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W. P. No. 9531 / 2012

31/01/2013

Ms. Ranjana Gawde, learned counsel for the petitioner.

Mr. M Parwal, learned counsel for the respondent State.

The petitioner before this Court, an Aanganwadi Karyakarta, has filed this present writ petition being aggrieved by the order of termination dt. 26/4/12.

The contention of the petitioner is that she was appointed as Aanganwadi Karyakarta on 26/12/94 and she is working with sincerity and devotion for the last 17 years. The contention of the petitioner is that without conducting any Enquiry an order was passed on 26/4/12 terminating services of the petitioner and an appeal was

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preferred by the petitioner before the Collector. The appellate authority has remanded the matter back by passing an order on 7/5/12 and once again the petitioner has been terminated. Learned counsel for the petitioner has argued before this court that on an allegation of child marriage which has allegedly taken place in the village, her services have been put to an end. She has also argued before this court that the respondents have not followed the prescribed procedure as provided under the policy dt. 10/7/07 and as the prescribed procedure has not been followed, the order of termination is bad in law.

A reply has been filed in the matter and the stand of the respondent State is that the services of the petitioner were put to an end on account of a child marriage which took place in the village in question by order dt. 26/2/12

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and as directed by the Collector, the petitioner was issued a letter on 11/6/12 to submit a reply and the petitioner did submit a reply. It has been further stated that after considering the reply of the petitioner and after recording her statement fresh order of termination has been passed on 21/6/12. Respondents have further stated that the petitioner is now free to challenge the order of termination before the Collector or by filing an appropriate appeal before the Commissioner. Respondents have prayed for dismissal of the writ petition.

Heard learned counsel for the parties at length and perused the record. The matter is being disposed of at the admission stage itself with the consent of the parties.

In the present case, it is an admitted fact that the

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petitioner was appointed on 26/12/94 and is having an unblemished service record. Respondents without following the prescribed procedure have passed an order initially on 26/4/12 dismissing the petitioner from service and an appeal was preferred by the petitioner before the Collector. The Collector has allowed the appeal on 7/5/12 and has directed the authorities to follow the prescribed procedure in accordance with law. The procedure has been prescribed under the policy dt. 10/7/07 and no enquiry as required under the policy has taken place. There is no enquiry report in the matter and the respondents have simply placed on record the statement of the petitioner. Not only this, the petitioner at the relevant point of time ie., from 16/4/12 to 23/4/12 was on leave and a categoric statement was made by the

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petitioner in her reply. Not only this, whether a child marriage had taken place or not was also not established by the authorities. On the basis of some vague allegations, without conducting an enquiry as required under the circular dt. 10/7/07 the services of the petitioner have been put to an end by the respondents.

This court in the case of Durga Vs. State of Madhya Pradesh reported in **2012 (5) MPHT 367**, in para 4 to 6 has held as under :

4. Learned Counsel for the respondents submits that on number of occasions the petitioner remained absent on his duties. On issuance of show cause notice and after giving an opportunity of hearing to the petitioner, the impugned order has been passed which requires no interference. It is submitted that the Government of Madhya Pradesh has issued circular dated 27/05/2006 for

selection and appointment of Anganwadi worker. R.5-A of the Rules dealing with the procedure for removal of Anganwadi worker reads as under:-

आंगनवाडी कार्यकर्ता का पद से हटाने की प्रक्रिया—

1 यदि सहयोगिनी मातृ समिति किसी कार्यकर्ता को पद से पृथक् करना चाहती है तो इस आशय का प्रस्ताव उपर्युक्त कारण दर्शाते हुए समिति की बैठक में प्रस्तुत करेगी एवं बैठक में प्रस्ताव बहुमत से पारित होने पर पर्यवेक्षक को प्रेषित करेगी। पर्यवेक्षक स्वयं संबंधित समिति द्वारा प्राप्त प्रस्ताव के परिपेक्ष्य में हटाने के कारणों के तथ्यों की जांच करेगी।

2 परियोजना अधिकारी द्वारा पर्यवेक्षक के जांच प्रतिवेदन का परीक्षण कर सात दिवस में आंगनवाडी कार्यकर्ता की सेवा समाप्ति का निर्णय लिया जाकर सेवा समाप्ति के आदेश जारी किये जा सकेंगे। आंगनवाडी कार्यकर्ता को पद से पृथक् करने के पूर्व सुनवाई का अवसर दिया जाना अनिवार्य होगा।

3 यदि सहयोगिनी मातृ समिति व पर्यवेक्षक के मत में भिन्नता हो तो बाल विकास परियोजना अधिकारी द्वारा जांच उपरांत निर्णय लिया जाकर जिला कार्यक्रम अधिकारी/जिला महिला बाल विकास अधिकारी के अनुमोदन पश्चात् पद से

पृथक किया जा सकेगा।

4 यदि पर्यवेक्षक की जानकारी में कार्यकर्ता के विरुद्ध कोई गंभीर शिकायत सीधे आती है तो वह इस शिकायतों पर संबंधित समिति का मत प्राप्त कर जांच उपरान्त वर्णित प्रक्रिया द्वारा ही कार्यकर्ता को हटाने की कार्यवाही कर सकती है।

5. In the matter of Meerabai Koli v/ s State of M.P. [2008(2)MPLJ 76] this Court has held that inquiry has to be conducted by the supervisor as provided under circular dated 2/03/2002 and opportunity of hearing has also to be provided to the worker.

6. After going through the order passed by respondent No.5 and also the orders passed by appellate and revisional authorities, this Court is of the view that the procedure laid down for removal of Anaganwadi worker was not followed. In view of this, petition filed by the petitioner is allowed and the orders dated 2/06/2011(Annexure P/1) passed by Commissioner, Indore, 9/09/2010 (Annexure P/4) passed by Collector, Jhabua and dated 31/03/2010 (Annexure P/2) passed by respondent

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No.5, stand quashed.

Keeping in view the judgment delivered by this court in the case of Durga Vs. State of Madhya Pradesh (supra), the writ petition is allowed. As the prescribed procedure was not followed by the authorities nor the factum of alleged child marriage was proved at any point of time. Not only this the petitioner was on leave during the period in question and, therefore, the impugned orders dt. 26/4/12 and the subsequent order dt. 21/6/12 are accordingly set aside. The respondents are directed to reinstate the petitioner forthwith in service. The petitioner shall also be entitled for 50% of the backwages.

(S. C. SHARMA)
J U D G E

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