

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5514 of 2017**

1. Laxman Sonwani S/o Shri Mansayram Aged About 40 Years R/o Village Matia , Block Mainpur District Gariyaband Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat And Rural Development Mantralaya Mahanadi Bhawan, Naya Raipur , Raipur Chhattisgarh.
2. The Collector , Gariyaband District Gariyaband Chhattisgarh.
3. The Chief Executive Officer, Zila Panchayat Gariyaband, District Gariyaband Chhattisgarh.
4. The Chief Executive Officer, Janpad Panchayat Mainpur, District - Gariyaband, Chhattisgarh.

---- Respondent

For petitioner
For Respondent/State

Ms. Meena Shastri, Advocate
Shri Sameer Behar, PL for the State.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

31/10/2017

1. It is argued that by order dated 21-8-2017 the Chief Executive Officer, Mainpur, has terminated the petitioner from the post of Rojgar Sahayak on the allegation of causing negligence and dereliction in duty. It is further argued that before proceeding to pass the impugned order Annexure – P/1 the petitioner has not been given any

opportunity of hearing or show cause notice, therefore, the order impugned is ex facie illegal being in violation of principles of natural justice.

2. It is a trite law that no order causing civil consequences can be passed, without observing the rules of natural justice. The Supreme Court in **State of Punjab & Ors. v. Senior Vocational Staff Masters Association & Ors. (AIR 2017 SC 4072)** held thus in paras 20 & 21 :

20) It is by now well settled that no orders causing civil consequences can be passed, without observing rules of natural justice as it was held in *Bhagwan Shukla v. Union of India & Ors. (AIR 1994 SC 2480)* wherein it was held as under:

“3. We have heard learned counsel for the parties. That the petitioner's basic pay had been fixed since 1970 at Rs, 190 p.m. is not disputed. There is also no dispute that the basic pay of the appellant was reduced to Rs.181 p.m. from Rs.190 p.m. in 1991 retrospectively w.e.f. 18.12.1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show-cause against the reduction of his basic pay. He was not, even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There, has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in

action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter. Since, that was not done, the order (memorandum) dated 25.7.1991, which was impugned before the Tribunal could not certainly be sustained and the Central Administrative Tribunal fell in error in dismissing the petition of the appellant. The order of the Tribunal deserves to be set aside. We, accordingly, accept this appeal and set aside the order of the Central Administrative Tribunal dated 17.9,1993 as well as the order (memorandum) impugned before the Tribunal dated 25.7.1991 reducing the basic pay of the appellant From Rs.190 to Rs.181 w.e.f. 18.12.1970.”

21) The order dated 16.07.2003 came to be made behind the back of vocational masters without following any procedure known to law. Thus, there has been a flagrant violation of the principles of natural justice and the respondents had been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter.

3. It is also to be seen that the counsel for the Mahatma Gandhi National Rural Employment Guarantee Act at the State level has issued a letter dated 30-7-2014 addressed to all the Collectors, *inter alia*, mentioning that if there is complaint about the illegalities, irregularities and

dereliction in duty committed by Rojgar Sahayak, the concerned CEO shall provide opportunity of hearing to the Rojgar Sahayak and the process for removal from service shall be undertaken after seeking prior approval from the concerned Coordinator/Collector.

4. In the case at hand, there is no mention in the impugned order that the same has been issued after enquiry and after obtaining prior approval of the Collector.
5. In view of the above, instead of keeping the matter pending ends of justice would be served if the petition is allowed reserving liberty in favour of the respondent authorities to enquire the matter and pass fresh order after affording fresh opportunity of hearing to the petitioner.
6. Accordingly, the impugned order dated 21-8-2017 is hereby quashed. The writ petition is allowed to the extent indicated above.

Sd/-

Judge

Prashant Kumar Mishra

Gowri