

Rekha Vs. State and ors.

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Court : Madhya Pradesh

Decided On : Mar-01-2005

Reported in : [2005(107)FLR712]

Judge : N.K. Mody, J.

Appellant : Rekha

Respondent : State and ors.

Judgement :

N.K. Mody, J.

1. The prayer in the petition is that the order Annexure-P-1, whereby the services of the petitioner has been terminated from the post of Aganwadi Worker be quashed.

The facts of the case that the petitioner after due selection was appointed as Aganwadi Worker vide order dated 26.6.2001 by Respondent No. 4. Thereafter, the petitioner was given the training for the period of 48 days. Petitioner worked from 2.7.2001 to 21.5.2002 as Aganwadi Worker. Vide order dated 21.5.2002 the services of the petitioner were discontinued on the ground that the appointment of the petitioner on the post of Aganwadi Worker was not in accordance with rules. Learned Counsel for the petitioner submits that before passing order Annexure-P-1 dated 21.5.2002 neither show cause notice was issued to the petitioner nor any

opportunity of hearing was provided. Further submission of Counsel for the petitioner is that in the order Annexure-P-1 it is not shown that how the appointment of the petitioner is in accordance with rules.

2. Return has been filed on behalf of the respondents, wherein it is submitted that as per the policy Annexure-R-2, which was issued on 27.5.1996 by Women and Child Welfare Department, the post of Aganwadi Worker were required to be filled in by giving priority on the following categories:

(a) Woman or a widow.

(b) Family below the poverty line.

(c) Family belonging to Scheduled Caste/Scheduled Tribe.

3. It is further mentioned in the Rules that for appointment on the post of Aganwadi worker, candidate should be matriculate. If it is not possible, a lady, who has passed the middle examination will also be eligible and if that is also not available, then in that case any lady less literate but prudent will be eligible. Shri Shridharan submits that in the appointment letter it was clearly mentioned that it is not a Government job and the services can be discontinued at any time without giving any notice and since the petitioner has not raised any grievance against the appointment letter, therefore, at this juncture it cannot be said that petitioner is entitled to claim the relief on the ground that notice was not given.

4. Learned Counsel for the petitioner placed reliance on Usha Yadav v. State of M.P. and Ors. : 2002 (3) MPLJ 85 wherein this Court has held that, 'since the order of removal was in violation of principles of natural justice, therefore, petitioner was directed to be reinstated with back-wages.'

5. Learned Counsel for the petitioner submits that from the document Annexure-R-1 it is evident that the petitioner was in the category who was economically weaker therefore, it cannot be said that the appointment of the petitioner is in violation of Policy Annexure-R-2. Since the services of the petitioner has been terminated from the post of Aganwadi without assigning any reason and also without given any show cause notice, therefore, order Annexure-P-1 cannot be sustained and it

is quashed.

6. In view of the fact that petitioner was from the weaker section of society and order of removal was passed without giving any opportunity of hearing to the petitioner, this petition is allowed. The order of removal of petitioner from the post of Aganwadi Worker dated 21.5.2002 is quashed and the services of the petitioner on the post of Aganwadi Worker is restored with back-wages. No order as to costs.

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