

Santosh Vs. the State of H.P. and ors.

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Court : Himachal Pradesh

Decided On : Nov-11-2008

Reported in : 2009(1)ShimLC248

Judge : Rajiv Sharma, J.

Appellant : Santosh

Respondent : The State of H.P. and ors.

Disposition : Petition allowed

Judgement :

Rajiv Sharma, J.

1. Briefly stated the facts of the case are that respondent No. 2 had issued notification on 31.10.2006 whereby applications were invited on plain paper along with documents for the post of Anganwadi Worker in Gram Panchayat, Khani. The petitioner submitted an application as per notification dated 31.10.2006. She was called for interview on 22.12.2006 by the respondent No. 2. It appears from the record that respondent No. 3 made a representation to respondent No. 2 on 9.4.2007 seeking her transfer from Anganwadi Centre, Kamand to Anganwadi Centre, Khun. Her application was accepted and she was transferred from Anganwadi Centre, Kamand to Anganwadi Centre, Khun. She joined her duties at Anganwadi Centre, Khun on 16.4.2007. The resultant vacancy at Anganwadi

Centre, Kamand was filled up by way of appointment of respondent No. 4.

2. Mr. Y.P.S. Dhaulta, Advocate has strenuously argued that the transfer of respondent No. 3 from Anganwadi Centre, Kamand to Anganwadi Centre, Khun is against the law and spirit of the notification dated 11.4.2007 whereby guidelines have been framed for engagement of the Anganwadi Workers/Helpers. He then contended that once the process had been initiated by respondent No. 2 for filling up the post of Anganwadi Worker at Anganwadi Centre, Khun, the same could not be terminated mid way by accommodating respondent No. 3 at Anganwadi Centre, Khun.

3. The learned Senior Additional Advocate General had supported the order whereby respondent No. 3 has been transferred from Anganwadi Centre, Kamand to Anganwadi Centre, Khun and appointment of respondent No. 4 at Anganwadi Centre, Kamand.

4. Mr. S.C. Sharna, Advocate has adopted the arguments of the learned Senior Additional Advocate General. Respondent No. 4, though served, is not represented.

5. I have heard the parties and have perused the record carefully.

It is admitted case of the parties that the process for filling up the post of Anganwadi Worker at Anganwadi Centre, Khun was initiated vide Annexure P-I. The petitioner had submitted an application and consequently, she was permitted to make herself available for interview on 22.12.2006. In the meantime, respondent No. 3 had submitted an application on 9.4.2007 seeking her transfer from Anganwadi Centre, Kamand to Anganwadi Centre, Khun. She joined her duties at Anganwadi Centre, Khun on 16.4.2007.

6. It will be apt at this stage to take note of sub-para (a) of paragraph 4 of the notification dated 11.4.2007 dealing with transfer/adjustment of the Anganwadi Workers/Helpers. It reads thus:

4. Transfer/Adjustment of the Anganwadi Workers/Workers:

(a) Under ICDS programme there is no provision of transfer of Anganwadi Workers /Helpers as these are honorary workers. However, in the case of marriage of an Anganwadi Worker or Helper, if at the place of her marriage, vacancy of an Anganwadi Workers or Helper exists she would be transferred or adjusted in that Anganwadi Centre.

(b) Request for adjustment/transfer can be made to the Child Development Project Officer on plain papers with certificate of marriage.

(c) Child Development Project Officer will be the competent authority to order transfer/adjustment of Anganwadi Workers/Helpers within the project and outside project but within the District, the District Programme Officer will be the competent authority to do so. Outside district transfers/adjustments will be done with the approval of Director on the recommendation of the District Programme Officer of the both Distts.

7. A bare perusal of paragraph 4 of the Scheme lays down that under the ICDS Programme, there is no provision of transfer of Anganwadi Workers/Helpers as these are honorary workers. However, an exception has been carved out in the case of marriage of an Anganwadi Worker/Helper, if at the place of her marriage, vacancy of an Anganwadi Worker/Helper exists, in that eventuality alone, she can be transferred or adjusted in that Anganwadi Centre. In the present case, respondent No. 3 was married on 2.4.1983. She joined her duties at Anganwadi Centre, Kamand on 3.10.1990 vide order dated 15.9.1990. Her application, as noticed above, for transfer was accepted and she joined her duties at Anganwadi Centre, Kamand on 16.4.2007. The transfer of respondent No. 3 from Anganwadi Centre, Kamand to Anganwadi Centre, Khun is in breach of paragraph 4 of the guidelines. It is only in the case of marriage of Anganwadi Worker/Helper that she can be accommodated to the place of her marriage. In the present case, respondent No. 3 was married on 2.4.1983 and she joined her duties at Anganwadi Centre, Kamand on 15.9.1990. She could not be accommodated by respondent No. 2 at Anganwadi Centre, Khun. She could only be adjusted if she was not already married and vacancy at the place of her marriage was lying vacant. The underlined principle of this exception is to help those girls who are

working on Anganwadi Centres and are likely to be married and the vacancy is lying vacant at the place of her marriage (matrimonial home). This position was not existent in the present case.

8. Respondent No. 2 had already initiated process for filling up the post of Anganwadi Worker at Anganwadi Centre, Khun. Interview was fixed on 22.12.2006. However, result of the same was not declared. Process for filling up the post of Anganwadi Workers was again initiated on 12.4.2007 (Annexure P-5). However, in the meantime, respondent No. 3 was appointed at Anganwadi Centre, Khun only on the ground that she was permanent resident of Badothi (Khun) where she was married and this village is feeding village of Anganwadi Centre, Khun. The transfer of respondent No. 3 is in contravention of sub-para (a) of paragraph 4 of the Scheme. The matter can be viewed from another angle. The transfer of respondent No. 3 from Anganwadi Centre, Kamand to Anganwadi Centre, Khun has deprived the petitioner to seek appointment as Anganwadi Worker at Anganwadi Centre, Khun. Once process had been initiated for filling up the post of Anganwadi Worker, the same should have been completed instead of accommodating respondent No. 3 by way of transfer. She was only working at a distance of 3 kms. from Anganwadi Centre, Khun.

9. The petitioner had amended the writ petition whereby appointment of respondent No. 4 has also been assailed along with respondent No. 3. The respondent No. 4 was duly served. However, she is not represented by any Counsel.

10. Accordingly, in view of the observations made hereinabove, the writ petition is allowed and Annexure P-3 dated 16.4.2007 is quashed and set aside. The effect of quashing of Annexure P-3 is that respondent No. 3 shall stand reverted to Anganwadi Centre, Kamand and the appointment of respondent No. 4 as Anganwadi Worker at Anganwadi Centre, Kamand is declared void. The respondent-State is further directed to complete the selection process on the basis of the interviews held on 22.12.2006 and thereafter to take consequential steps.

No costs.

