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WA-2581-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE PUSHPENDRA YADAV

ON THE 15th OF SEPTEMBER, 2025WRIT APPEAL No. 2581 of 2025*SMT RANI KUSHWAHA**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

*Shri Harshit Kulshrestha - Advocate for the appellant.**Shri Ankur Modi, AAG with Shri Sohit Mishra - Government Advocate for the State.*
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ORDER

Per. Justice Anand Pathak

1. The instant "Writ Appeal under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khandpeeth Ko Appeal Adhiniyam), 2005" is preferred against judgment and order dated 20.08.2025 passed in W.P.No.3144/2013, whereby petition preferred by the petitioner was dismissed.

2. Appellant/petitioner preferred the petition being crestfallen by order dated 17.01.2023 (Annexure P/1 of writ petition), whereby her appointment on the post of Anganwadi Sahayika has been cancelled on account of reinstatement of respondent no.5 on the said post.

3. Question raised by the appellant in this Writ Appeal is that when appellant appointed on the post of Anganwadi Sahayika vide order dated 20.02.2020 on account of vacancy arose because of termination of one Smt.



Mamta Vishwakarma (respondent no.5 herein) on the ground of complaint of absenteeism, but if she subsequently succeeds in appeal before Commissioner, then whether respondent/State was justified in cancellation of appointment of appellant.

4. Appellant continued to serve as Anganwadi Sahayika for three years. Meanwhile, respondent no.5 preferred an appeal first before the Collector, but suffered and, thereafter, she preferred appeal before Commissioner and same was allowed vide order dated 20.11.2020 (Annexure R/3 in writ petition). Commissioner set-aside the order passed by Collector and remitted the matter to him for fresh decision. Collector in turn remanded the matter to District Program Officer (respondent no.3 herein) vide order dated 02.08.2021 (annexure R/4 in writ petition) directing respondent no.3 to conduct a detailed enquiry and take suitable action based upon the report.

5. It appears that respondent no.3 conducted detailed enquiry and found termination of respondent no.5 wrong. Accordingly, respondent no.5 was held to be entitled to reinstatement on the post of Anganwadi Sahayika. This order was the bone of contention, because during the pendency of proceedings appellant was appointed and served for three years as Anganwadi Sahayika, but by the said order of respondent no.3, she had to give way to respondent no.5 because respondent no.5 was to be reinstated on the post of present appellant. Therefore, appellant approached Writ Court by way of W.P. No.3144/2023. However, learned Writ Court after considering the submissions did not find arguments of appellant convincing enough to



allow the petition. Writ was dismissed. Therefore, petitioner as appellant is before this Court.

6. It is the submission of learned counsel for appellant that she was appointed as per law and served three years. She cannot be removed arbitrarily.

7. Counsel for the respondent opposed the prayer and supported the impugned order.

8. Heard.

9. Appellant who happens to be a subsequent appointee (as Anganwadi Sahayika) is taking exception to the proceedings of respondents, whereby earlier incumbent (respondent no.5 herein) is directed to be reinstated and services of appellant stands cancelled.

10. Once the earlier incumbent (respondent no.5 herein) was terminated and termination was challenged by the respondent no.5, first before Collector and, thereafter, before Commissioner, it means process was under way and impliedly appointment of appellant was subject to final outcome of said litigation initiated at the instance of respondent no.5. This aspect was discussed in detail by the Division Bench of this Court in case of R.P. No.380/2012 (Jhunilal Yadav vs. State of M.P. {2014 SCC Online MP 3951}) dated 16.04.2014 in which Division Bench has held as under:-

"It is the case of the applicant now in the application that the applicant was appointed as a Panchayat Karmi based on an advertisement and recruitment process conducted by the Panchayat in the year 2001 and as the applicant was working in the panchayat, the order passed for reinstating Smt. Vijay Laxmi Mishra has the result of removing the applicant from service and as this has been done without hearing him, the



action is unsustainable.

Shri Atulanand Awasthy, learned counsel appearing for respondent No. 5 refuted the aforesaid and pointed out that services of Smt. was terminated in the year 2000 and after her termination the applicant was appointed in a vacancy that arose due to termination of Smt. Vijay Laxmi Mishra. It is said that termination of the original employee namely Smt. Vijay Laxmi Mishra having been found to be unsustainable, applicant has to make room as the applicant's appointment was on a vacancy which was created after termination of respondent Smt. Vijay Laxmi Mishra. Accordingly, it is submitted by him that no error has been committed, applicant is not entitled for any hearing and no case for review is made out.

We find much force and substance in the objection raised by Shri Atulanand Awasthy. Smt. Vijay Laxmi Mishra was working as Panchayat Karmi/Panchayat Secretary and in the year 2000 her services were terminated. After terminating her services, in a vacancy resultantly caused applicant herein was appointed but once the termination of Smt. Vijay Laxmi is quashed she is to be re-appointed as a Panchayat Karmi, the applicant cannot resist that reinstatement on the ground that applicant has been appointed. Applicant having been appointed in a vacant post created after termination of Smt. Vijay Laxmi cannot have any grievance in the matter of reinstatement of Smt. Vijay Laxmi after her termination is quashed.

In the facts and circumstances as are detailed herein above, merely on the ground that applicant was not impleaded in the original writ petition and he was not heard in the matter, we see no reason to review/recall the order. If the applicant has any grievance for continuing him in service in any other Panchayat, he may take up the matter with the competent authority and it would be for the competent authority to consider the same. On the basis of consideration made herein above, we see no reason to interfere. There is no error apparent on the face of record warranting review/recall of the order."

11. Since respondent no.5 was pursuing litigation and matter was pending before different authorities for consideration, therefore, natural consequence of the litigation if goes in favor of respondent no.5 by way of



her reinstatement, then appellant being subsequent appointee has to give way. Appointment of appellant was impliedly subject to outcome of the litigation persuaded by respondent no.5.

12. If the arguments of appellant are accepted, then it impliedly renders the proceedings (appeal before Collector and Commissioner) otiose. In fact this makes a delinquent employee remedy-less because if he pursues the remedy, in which outcome is already written on the wall because of appointment of incumbent (appellant herein), then those proceedings/remedies are of no use. To give meaning and effect to those remedies and to vindicate stand of a delinquent it is imperative that a delinquent employee be given a chance for reinstatement if he/she proves the case that he/she was innocent and on false pretext removed from the job. Then he/she is certainly entitled for reinstatement.

13. In view of the above discussion it appears that no case is made out for interference because learned Writ Court rightly considered the issue and then decided accordingly.

14. Impugned order stands affirmed. Writ Appeal stands **dismissed**.

(ANAND PATHAK)
JUDGE

(PUSHPENDRA YADAV)
JUDGE