

HIGH COURT OF MADHYA PRADESH BENCH AT INDORE
(S.B.: HON. SHRI JUSTICE PRAKASH SHRIVASTAVA)

Writ Petition No. 6323 of 2014

Vijay Kumar Mandloi

Petitioner

Vs.

State of Madhya Pradesh and others

Respondents

Writ Petition No. 6326 of 2014

Sudip

Petitioner

Vs.

State of Madhya Pradesh and others

Respondents

Writ Petition No. 6329 of 2014

Shyam Rathore

Petitioner

Vs.

State of Madhya Pradesh and others

Respondents

Writ Petition No. 6331 of 2014

Magan Singh Makwana

Petitioner

Vs.

State of Madhya Pradesh and others

Respondents

Shri Jitendra Verma learned counsel for the petitioner.
Shri Rohit Mangal learned counsel for the respondents.

Whether approved for reporting :

ORDER

(Passed on 14th October, 2015)

This order will govern disposal of WP Nos. 6323/14,

6326/14, 6329/14 & 6331/14 since it is jointly stated by counsel for the parties that all these writ petitions involve common issue in identical facts situation.

For convenience the facts have been noted from WP No. 6323/14.

The petitioner was appointed on the post of Counsellor in pursuance to the advertisement and on expiry of the contract period his services were terminated by order dated 15/9/10. The petitioner had earlier filed writ petition No. 296/2011 alongwith other candidates and the writ petition was disposed of by order dated 27/8/11 with direction to the respondents to decide the petitioner's representation and to permit the petitioner to continue till the representation is decided and pay salary including arrears. The representation filed by petitioner was rejected by the respondents by order dated 23/5/12. Against the said order the petitioner had preferred WP No. 9711/12 which was dismissed by order dated 28/1/14. In writ appeal No.430/14 by order dated 25/7/14 the petitioner was permitted to withdraw writ appeal as well as writ petition with liberty to file a fresh petition and thereafter this writ petition has been filed.

Learned counsel for petitioner submits that no notice was given to the petitioner before terminating the services and order of termination is passed in violation of principle of natural justice. He has also prayed for continuation of services of the petitioner on the basis of order dated 4/5/12 passed in writ petition No. 8982/2011 (Takhat Singh and others Vs. State of MP & others).

Learned counsel for respondents has opposed the writ petitions and has supported the impugned order of termination.

Having heard the learned counsel for the parties and on perusal of the record, it is noticed that petitioner was appointed on contract basis by order dated 13/6/07 for a period of one year and in terms of the agreement entered into between the parties the contract period was upto 31/3/08. Thereafter the contract period was extended upto 31/3/09 and then again by order dated 27/5/09 upto 31/3/2010 and thereafter the contract was not renewed and by order dated 15/9/10 the services of petitioner were terminated.

In the earlier round of litigation, Principal Seat of this court while passing the order dated 27/8/11 in WP No. 296/11 had not set aside the order dated 15/9/10 and had also not found any flaw in the said order but considering the orders passed in writ petition Nos. 13042/11(s), 13044/11(s) and 13048/11(s) the court had disposed of the writ petition with a direction to decide the representation and further direction to continue the petitioner. Copies of the orders passed in writ petition Nos. 13042/11(s), 13044/11(s) and 13048/11(s) have not been placed on record by the petitioner. Thereafter the case of petitioner has been examined in detail while deciding the petitioner's representation and by order dated 23/5/12 the petitioner's representation has been rejected finding that services of petitioner have been terminated in accordance with the terms of contract.

The impugned order dated 23/5/12 reveals that services of petitioner are no longer required and no fresh advertisement has been issued for appointing on said post. The record also reveals that at the time of contract appointment, the petitioner had executed an agreement which contains the condition that the appointee would not be entitled to claim regularisation and

his services could be terminated by giving one month's notice or payment in lieu of notice.

The uncontroverted reply of respondents reveals that before terminating the services of petitioner one month's notice was given. Even otherwise the respondents have disclosed that petitioner was appointed as counsellor in RCH Project and project itself has come to an end.

Counsel for petitioner has placed reliance upon the judgment of this Court in the matter of Takhat Singh (supra) but that was a case of discontinuance of service of male nurse which stands on different footing in respect to which there appears to be some scheme.

Counsel for petitioner has placed reliance upon judgment of Gwalior Bench of this court in the matter of **Prem Chand Yadav Vs. M.P. Poorva Kshetra Vidyut Vitaran Company Ltd reported in 2013(2) MPLJ 323** but since in the present case services of petitioner have been terminated after giving one month 's notice and on expiry of period of contract therefore the petitioner is not entitled to the benefit of said judgment.

Supreme court in the matter of **Gridco Limited and another Vs. Sadananda Doloi and others reported in (2011) 15 SCC 16** while considering the similar issue of termination of contract appointment has held as under:

41. It is also evident that the renewal of the contract of employment depended upon the perception of the management as to the usefulness of the respondent and the need for an incumbent in the position held by him. Both these aspects rested entirely in the discretion of the Corporation. The respondent was in the service of another employer before he chose to accept a contractual employment offered to him by the Corporation which was limited in tenure and terminable by three months' notice on either side. In that view,

therefore, there was no element of any unfair treatment or unequal bargaining power between the appellant and the respondent to call for an over-sympathetic or protective approach towards the latter.

42. We need to remind ourselves that in the modern commercial world, executives are engaged on account of their expertise in a particular field and those who are so employed are free to leave or be asked to leave by the employer. Contractual appointments work only if the same are mutually beneficial to both the contracting parties and not otherwise.”

In the matter of **Satish Chandra Anand Vs. The Union of India, reported in AIR 1953 SC 250** the Four Judges Bench of Supreme court has laid down that the termination of contract appointee after notice as per contract is neither a dismissal nor removal from service or reduction in rank but is an ordinary case of a contract being terminated by notice under one of its clauses and in such cases the remedy of writ is misconceived and if such an appointee has been denied any right under the contract, assuming he has any, then he should pursue in the ordinary Courts of the land such remedies for a breach as are open to him. It is also settled that if the order of termination of a contract appointee is innocuous and not on the basis of any allegation, no opportunity of hearing is necessary (See: **Brahamdutta Gupta Vs. State of MP & others, reported in 2004(2) MPLJ 306**). Supreme court also in the matter of **Gurbachan Lal Vs. Regional Engineering College Kurukshetra and others reported in (2007) 11 SCC 102** in a case where the temporary employee had completed more than 10 years of continuous service has held that even such an employee cannot have right to continue when scheme on the basis of which he was appointed and was working itself has

come to an end. It is settled that project/scheme employees appointment solely on basis of scheme are not entitled to regularisation specially when the scheme has come to end.

Keeping in view the above legal position and considering the facts⁰ of this case specially that contract period of the petitioners is over, and the project itself has come to an end, I am of the opinion that no case for interference in the impugned order is made out. The writ petitions are accordingly dismissed. The signed order be placed in the record of WP No. 6323/14 and copy whereof be placed in the record of connected writ petitions.

C.C. as per rules.

(Prakash Shrivastava)
Judge

BDJ