



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 517 of 2016

1 - Chandrika Yadav S/o Shri Shivkumar Yadav, Aged About 33 Years
Rojgar Sahayak Gram Panchayat- Kamleshwarnagar At That Time,
Presently Gram Panchayat- Jhara, Janpad Panchayat- Ramchanrapur,
Police Station Sanawal, Tahsil Ramanujganj, District Balrampur
Ramanujganj, Chhattisgarh., Chhattisgarh

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through Secretary, Panchayat And Gramin
Vikas Vibhag, Mahanadi Bhawan, Mantralaya, Capital Complex, Naya
Raipur, District Raipur Chhattisgarh, Chhattisgarh

2 - Collector, Balrampur- Ramnujganj District Balrampur- Ramnujganj
Chhattisgarh., District : Balrampur, Chhattisgarh

3 - Chief Executive Officer, Ramchandrapur, District Balrampur
Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh

4 - Ombudsmen/ Lokpal, Mahatma Gandhi, National Rural, Employment
Guaranty Scheme, Zila Panchayat Ambikapur, P.S. Civil Line
Ambikapur, District Surguja Chhattisgarh., District : Surguja
(Ambikapur), Chhattisgarh

5 - Smt Sohri Devi, Janpad Member, Area No. 3, R/o Janpad
Panchayat, Ramchandrapur, P.S. Sanawal, District Balrampur
Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

6 - Shri Pradeep Parajapati, Up Sarpanch Gram Panchayat Kameshwarpur, Janpad Panchayat, Ramchandrapur, P.S. Sanawal, District Balrampur Ramnujganj Chhattisgarh, District : Balrampur, Chhattisgarh

7 - Ramcharittar Sonwani R/o Village Kameshwar Nagar Gram Panchayat Kameshwarpur, Janpad Panchayat, Ramchandrapur, P.S. Sanawal, District Balrampur Ramnujganj Chhattisgarh, District : Balrampur, Chhattisgarh

8 - Shri Ram Khelawan Ravi S/o Ramdevram, Panchayat Secretary, Of Sarpanch Gram Panchayat- Kameshwarpur, Janpad Panchayat, Ramchandrapur, P.S. Sanawal, District Balrampur Ramnujganj Chhattisgarh., District : Balrampur, Chhattisgarh

9 - Sub Division Officer Ramanujganj, District Balrampur, Ramnujganj Chhattisgarh., District : Balrampur, Chhattisgarh

... Respondent(s)

For Petitioner(s)	: Mr. A. K. Yadav, along with Mr. Navneet Kumar Yadav, Advocate
-------------------	---

For State/Respondent No. 1, 2 & 9: Mr. Rohan Shukla, Panel Lawyer.

For Respondent No. 3	: Mr. Ankur Diwan, Advocate.
----------------------	------------------------------

Hon'ble Shri Justice Ravindra Kumar Agrawal, J.

Order on Board

16/03/2026

1. Present is a writ petition filed by the petitioner under Article 226/227 of the Constitution of India challenging the order dated 14.10.2015 passed by the Collector, Balrampur-Ramanujganj, in Panchayat Appeal Case No.15/B-121/11-12 Annexure P/1,

whereby the Collector Balrampur-Ramanujganj though allowed the appeal filed by the petitioner and quashed the orders dated 25.10.2012 passed by Collector (Development Cell) Balrampur-Ramanujganj order dated 03.06.2014 passed by the Chief Executive Officer, Janpad Panchayat, Ramchandrapur by which imposing the penalty of Rs. 500/- as fine and removal of service of the petitioner, respectively, were passed by the authorities concerned, however, he again directed the Chief Executive Officer Janpad Panchayat, Ramchandrapur to terminate the petitioner from the post of Rojgar Sahayak pursuant to the recommendation dated 27.06.2012 made by the Lokpal under the The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), and also directed to recover the loss incurred to the State by the act of the petitioner.

2. The brief facts of the case are that the petitioner was appointed on the post of Rojgar Sahayak 03.04.2008 and posted at Gram Panchayat Jhara, Janpad Panchayat, Ramchandrapur. Vide order dated 21.10.2011, he was transferred to Gram Panchayat, Kameshwarpur. During his tenure the Respondent No.5 to 7 made a complaint against the petitioner to the Respondent No.4 on which an inquiry was conducted by the Respondent No.4 and he passed an order on 27.06.2012 holding guilty of the petitioner of misconduct of preparing forged muster role and misappropriation of government fund and recommended for termination of his services. Pursuant to the recommendation dated 27.06.2012

made by the Lokpal (MGNREGA), the Collector Balrampur Ramanujganj issue show cause notice to the petitioner on 12.09.2012 and after receiving his reply passed an order of penalty of fine Rs. 500/- and warned the petitioner for future. Since the recommendation for termination of the services of the petitioner was made by Lokpal (MGNREGA), the Chief Executive Officer Janpad Panchayat, Ramchandrapur, who was the appointing authority of the petitioner had taken action and terminated the petitioner from the post of Rojgar Sahayak vide its order 03.06.2014 Annexure P/2. Against the termination order dated 03.06.2014 the petitioner filed a writ petition before the co-ordinate bench of this Court bearing WPS No. 2918/2014, which was disposed of on 07.07.2014 with liberty to avail the remedy of departmental appeal. After passing of the order in the writ petition, the petitioner filed a departmental appeal against the order dated 03.06.2014, passed by the Chief Executive Officer, Janpad Panchayat, Ramchandrapur before the Collector Balrampur Ramanujganj which was registered as Panchayat Appeal Case No.15/B-121/11-12. The said appeal was decided on 14.10.2015 and the Collector Balrampur-Ramanujganj set aside the order dated 25.10.2012 passed by Collector Balrampur- Ramanujganj Annexure P/1, whereby the penalty of Rs. 500/- was imposed upon the petitioner and the order dated 03.06.2014 passed by Chief Executive Officer, Janpad Panchayat, Ramchadrapur Annexure P/2, whereby the petitioners services have been

terminated and after quashing of the earlier orders the Collector Balrampur Ramanujganj directed the Chief Executive Officer, Janpad Panchayat Ramchandrapur, to initiated proceeding for termination of the petitioner and also for recovery of the amount towards loss incurred to the state by the act of the petitioner. The said order dated 14.10.2015 is under challenge in the present writ petition.

3. Learned counsel for the petitioner would submit that on the complaint made by the Respondent No. 5 to 7 the inquiry was conducted by the Lokpal who recommended for appropriate action against the petitioner, however, the said inquiry conducted by the Lokpal was not in accordance with law and the documents have not been property considered. The Collector Balrampur Ramanujganj has imposed minor penalty against the petitioner by imposing fine of Rs. 500/- and the respondent No. 3 for the State have not challenged the said order. The respondent No.3/Chief Executive Officer Janpad Panchayat, Ramchandrapur, pursuant to the recommendation dated 27.06.2012 again passed the order of termination of the petitioner from the post of Rojgar Sahayak which double jeopardize the petitioner as an order of penalty has already been passed by the Collector Balrampur Ramanujganj on 25.10.2012. He would further submits that before passing the order of termination the property opportunity of hearing have not been provided to the petitioner and no show cause notice have been issued to him and directly the order of termination has been

passed against him which the violation of the principles of natural justice. The said order of termination dated 03.06.2014 was challenged by the petitioner in the writ petition and after disposal of the writ petition the petitioner had filed a departmental appeal before the Collector Balrampur Ramanujganj which was decided on 14.10.2015. The Collector Balrampur Ramanujganj also considered the violation of principles of natural justice and also considered that there was no notice issued to the petitioner before passing the impugned order and has quashed the earlier orders dated 25.10.2012 and 03.06.2014. Once the Collector comes into conclusion that there are sufficient ground for quashing of the orders dated 25.10.2012 and 03.06.2014, they ought not to be directed the Respondent No.3 Chief Executive Officer Janpad Panchayat, Balrampur-Ramanujganj to initiate proceeding for termination of the petitioner from the post of Rojgar Sahayak on the recommendation made by the Lokpal (MGNREGA), directing for termination itself amounts to punishment and the subordinate authorities are bound to comply with the order passed by Collector Balrampur Ramanujganj which still the violation of the principles of natural justice. Termination from service is a major penalty which cannot be imposed without following the due process of law without hearing the concerned party i.e. the petitioner. Therefore, the impugned order dated 14.10.2015 passed by Collector Balrampur Ramanujganj may be quashed and the petitioner to take reinstate in his service with all

consequential benefits.

4. Per contra, learned counsel appearing for the Respondent No.3 opposed the submissions made by learned counsel for the petitioner and would submit that although the earlier orders dated 25.10.2012 and 03.06.2014 has been quashed by the Collector, Balrampur Ramanujanj but in an appeal, the Collector has directed the subordinate authorities i.e. Chief Executive Officer, Janpad Panchayat, Ramchadrapur to initiate proceeding for termination of the petitioner. In view of the recommendation dated 27.06.2012, made by the Lokpal (MGNREGA). He would further submits that the recommendation dated 27.06.2012 made by the Lokpal (MGNREGA), have not been challenged in any forum till date it is only the consequence of that recommendation have been challenged. The Lokpal (MGNREGA), have recommended for termination of the petitioner after due process of inquiry and after providing opportunity of hearing to the petitioner. He would fairly submits that from verification of the record, he does not find that any notice was issued to the petitioner before passing the order dated 03.06.2014 by the Chief Executive Officer, Janpad Panchayat, Ramchandrapur. He would further submits that the Chief Executive Officer is bound to comply with the order passed by Senior Officer. Since the recommendation dated 27.06.2012 has not been challenged till date therefore, the authorities concerned are bound to proceed in accordance with law on the basis of recommendation and therefore, there is no merit in the

present writ petition and the same is liable to be dismissed.

5. Learned counsel appearing for the Respondent/State would submit that it is the respondent No. 3 who has to take a decision on the basis of the recommendation dated 27.06.2012 made by Lokpal (MGNREGA), which has been directed by the Collector Balrampur Ramanujganj also vide its order dated 14.10.2015, therefore, there is no merit in the present writ petition.
6. I have heard learned counsel for the parties and perused the material annexed with the petition.
7. From perusal of the entire material annexed with the petition as well as from the submissions made by learned counsel for the parties, it is quite vivid that the recommendation dated 27.06.2012 made by the Lokpal (MGNREGA) have not been challenged by the parties concerned in any forum and it is only the consequence of the recommendation have been challenged by the petitioner either in the writ petition or in the appeal before the Collector. Under the recommendation dated 27.06.2012 there was two orders passed by the authorities i.e. No.1 order dated 25.10.2012 passed by the Collector, Balrampur Ramanujganj by minor penalty fine of Rs. 500/- was imposed upon the petitioner and No.2 the order dated 03.06.2014 by which the petitioner has been terminated from the post of Rojgar Sahayak which is the order passed by the Chief Executive Officer Janpad Panchayat, Ramchandrapur. The order dated 25.10.2012 passed by Collector

Balrampur Ramanujganj also have not been challenged by any of the parties but the termination order dated 03.06.2014 has been challenged by the petitioner in Writ Petition (S) No. 2918/2014 which was disposed of vide order dated 07.07.2014 by co-ordinate bench of this Court deserving liberty to the petitioner to prefer an appeal before the competent authority in accordance with law. Thereafter, the petitioner challenged the termination order dated 03.06.2014 before the Collector Balrampur-Ramanujganj who has passed the order on 14.10.2015.

8. This Court finds that the recommendation dated 27.06.2012 made by the Lokpal under MGNREGA, whereby the petitioner was found guilty of misconduct, including preparation of forged muster rolls and misappropriation of government funds, has admittedly not been challenged by the petitioner before any competent forum. It is thus apparent that the foundational recommendation has attained finality. What has been challenged by the petitioner are only the consequential orders arising out of the said recommendation, namely, the order dated 25.10.2012 passed by the Collector, Balrampur-Ramanujganj, imposing a minor penalty of fine of Rs. 500/-, and the order dated 03.06.2014 passed by the Chief Executive Officer, Janpad Panchayat, Ramchandrapur, whereby the petitioner was terminated from service.
9. The petitioner challenged the termination order dated 03.06.2014 before this Court in Writ Petition (S) No. 2918/2014, which came

to be disposed of vide order dated 07.07.2014 granting thereto, the petitioner preferred the of Balrampur-Ramanujganj, which liberty to the petitioner to avail the remedy of appeal before the competent authority. Pursuant was registered as Panchayat Appeal Case No.15/B-121/11-12 and decided on 14.10.2015. The Collector, while exercising appellate jurisdiction, set aside both the orders dated 25.10.2012 and 03.06.2014 on the ground of violation of principles of natural justice, particularly for want of adequate opportunity of hearing.

10. However, at the same time, the Collector directed the competent authority, i.e. Chief Executive Officer, Janpad Panchayat, Ramchandrapur to proceed afresh against the petitioner in light of the recommendation dated 27.06.2012 made by the Lokpal. In the considered opinion of this Court, such a direction cannot be termed illegal or without jurisdiction. Once the foundational recommendation, which forms the basis of the entire action, remains unchallenged and subsisting, the competent authority is well within its right to take appropriate action in accordance with law. The direction issued by the Collector is only to ensure that proper procedure is followed before taking a final decision and does not amount to the imposition of any punishment by itself.
11. In the case of "***B. C. Chaturvedi vs. Union of India and Others***" 1995 (6) SCC 749, the Hon'ble Supreme Court has considered that:-

“12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to Censure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.”

12. The contention of the petitioner that the impugned action amounts to double jeopardy is also devoid of merit. Since the earlier orders of punishment have already been set aside by the appellate authority, the matter stands relegated for fresh consideration. When an order of punishment is set aside due to procedural infirmity, the competent authority is not precluded from holding a fresh inquiry from the stage where the defect has crept in, in

accordance with law.

13. In view of the aforesaid analysis, this Court is of the considered opinion that the impugned order dated 14.10.2015 passed by the Collector, Balrampur-Ramanujganj does not suffer from any illegality or infirmity. The writ petition, being devoid of merit, is accordingly **dismissed**. However, it is observed that while proceeding afresh pursuant to the direction issued by the Collector, the competent authority shall strictly adhere to the principles of natural justice and afford due opportunity of hearing to the petitioner before passing any final order.

Sd/-

(Ravindra Kumar Agrawal)

Judge

Alok