

(2010) 09 AHC CK 0551

Allahabad High Court

Case No: None

Manju Lata Singh

APPELLANT

Vs

State of U.P. and
Others

RESPONDENT

Date of Decision: Sept. 13, 2010

Hon'ble Judges: Dilip Gupta, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Dilip Gupta, J.

The petitioner was selected as Aangan Badi Karyakatri in October, 1998. An order dated 24th May, 2010 was passed by the Child Development Officer, Ghazipur terminating the engagement of the petitioner. This order was assailed by the petitioner in Writ Petition No. 38274 of 2010 which was allowed by the Judgment and order dated 5th July, 2010 with the following observations:

Therefore, in such situation, I am of the opinion that as the order impugned is clear in violation of the principle of natural justice, therefore, there is no need to invite the counter affidavit and rejoinder affidavit, because ultimate result will be same as it is on today.

Therefore, in such situation, I am of the opinion that the mater may be re-delegated to competent authority to pass the appropriate orders after affording full opportunity to the petitioner as fresh.

The writ petition is allowed the order dated 24.05.2010 Annexure No. 4 to this writ petition is hereby quashed and the mater is remanded back to the respondent No. 3 to pass the appropriate orders after affording full opportunity to the petitioner within a period of six weeks from the date of production of certified copy of this order before him.

2. It is stated in the petition that the copy of the said judgment and order was served by the petitioner upon the Child Development Officer on 12th July, 2010 and thereafter the impugned order dated 20th August, 2010 has been passed by the Chief Development Officer terminating the engagement of the petitioner as Aangan Badi Karyakatri.

3. A perusal of the said order indicates that the letter dated 16th August, 2010 was sent to the petitioner fixing 19th August, 2010 as the date of hearing but the petitioner refused to accept this letter and did not appear on the date fixed.

4. Learned Counsel for the petitioner has submitted that the said letter was never served upon the petitioner and a wrong statement has been made in the impugned order that the petitioner refused to accept the said letter. He has further submitted that even the impugned order does not mention how this letter dated 16th August, 2010 was served upon the petitioner. It is, therefore, his submission that the order should be set aside as despite the directions of this Court in the judgment and order dated 5th July, 2010 that full opportunity should be given to the petitioner before passing the fresh order, such opportunity has not been given to the petitioner.

5. Learned Standing Counsel has defended the impugned order and has stated that since a categorical statement has been made in the impugned order that the petitioner refused to accept the letter, the petitioner cannot complain of violation of principles of natural justice.

6. I have carefully considered the submission advanced by the Learned Counsel for the parties.

7. The Court in the judgment and order dated 5th July, 2010 had required that full opportunity should be given to the petitioner before taking a fresh decision. Only a bald statement has been made in the impugned order that efforts were made to serve the letter dated 16th October, 2010 which required the petitioner to appear before the Child Development Officer on 19th October, 2010 with the records but there is nothing on the record to indicate as to how this letter was served. Only a bald statement has been made that the petitioner refused to accept the letter. It cannot, therefore, be said that opportunity, much less proper opportunity, had been given to the petitioner by the respondents before passing the impugned order.

8. The matter had earlier been remitted to the Child Development Officer to pass a fresh order. In such circumstances it would be appropriate that the matter may be sent to the District Magistrate, Ghazipur to take a decision after giving adequate opportunity to the petitioner.

9. The order dated 24th May, 2010 is, accordingly, set aside. The writ petition is allowed to the extent indicated above.