

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14616 of 2015

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Urmila Kuar, wife of late Sheopujan Tiwari, resident of village
Parsurampur, P.S. Sonhan, District Kaimur (Bhabua)

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Social Welfare Department,
Bihar, Patna
2. The Director, Integrated Child Development Scheme, Bihar, Patna
3. The Deputy Director, I.C.D.S., Social Welfare Department, Patna
Division, Patna
4. The District Magistrate, Kaimur at Bhabua
5. The District Programme Officer, Kaimur at Bhabua
6. The Child Development Project Officer, Bhabua, District Kaimur

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Pathak, Adv.

For the Respondent/s : Mr. Siddharth Shankar Pandey, AC to GP24

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 15-09-2015 Heard learned counsel for the parties.

The petitioner being aggrieved by her order of termination dated 22.2.2014 passed by the District Programme Officer, Kaimur and its affirmance by the appellate authority in the order dated 18.6.2014 has filed this writ application for setting aside both of them on the ground that mere one day's absence of the petitioner on 11.9.2013 should not have led to termination of service of the petitioner. Learned counsel for the petitioner explains that the petitioner in fact on 11.9.2013 on account of her illness had left the centre and had gone for treatment to Bhabhua after submitting an application for leave and her such plea of illness was duly supported by the medical prescription and yet

both the authorities have failed to take into consideration the same.

This Court will have to keep in mind that the petitioner was not a Government servant and in fact only an Anganwari Sevika and thus, not entitled for protection under Article 311 of the Constitution of India. Such engagement of the petitioner being purely in terms of Anganwari Guidelines which specifically lays down that the operation of the centers have to be made on each and every day for the welfare of the children, if the petitioner was found absent in course of sudden inspection and the center to be also closed, it would be very difficult for this Court now to accept the plea of the petitioner that she had handed over the charge to Sahaika. The center was found to be closed on 11.9.2013 is an admitted position. The controlling officer of the petitioner was none else but the Child Development Project Officer and therefore, if the petitioner had become unwell, she had to take prior leave from the C.D.P.O. so that some alternative arrangement could be made for running of the center.

In that view of the matter, when there is a specific finding of the District Programme Officer that in the inspection report center was found to be closed, this Court cannot interfere with the order of termination of service of the petitioner, wherein no effort was made by the petitioner to allow the center to function in her

absence. Her both the plea of either handing over charge to Sahaika or her filing application for leave having been found to be not correct, this Court will have very little to do in purely contractual nature of service of the petitioner, which, as noted above, cannot be equated with the Government service.

That being so, this Court will have no reason to interfere with the impugned orders. It is, accordingly, dismissed.

(Mihir Kumar Jha, J)

surendra/-

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