

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15479 of 2015

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Manju Kumari W/o Rajendra Prasad Resident of village+P.O. Halai, P.S. Tazpur, Block- Morwa, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Social Welfare, Bihar, Patna.
2. The Director, I.C.D.S., Bihar, Patna.
3. The District Magistrate cum Collector, Samastipur.
4. The Deputy Director (Welfare), Darbhanga.
5. The District Programme Officer, Samastipur.
6. The Child Development Project Officer, Morwan, Samastipur.
7. The Mukhiya Village Panchayat, Banbira Block Morwan, District- Samastipur.
8. Neelam Devi W/o Jitendra Rai, Resident of Village+P.O. Banbira Halai, Block- Morwan, District- Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Sinha, Adv

For the Respondent/s : Mr. GA5- Jai Shankar Barnawal

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 05-10-2015 Heard learned counsel for the parties as with regard

to the following relief, prayed in this writ application:-

“That this writ application has been made filed for issuance of an appropriate order/s, direction/s including a writ preferably in the nature of CERTIORARI for quashing the order dated 22.06.2015 passed in Anganwari Sevika Service Appeal Case No. 158/2013 and order dated 22.07.2015 vide memo No. 176/22-07-15 whereby and where under the learned Deputy Director (Welfare) Darbhanga and the Child Development Project Officer, Morwa, Samastipur reinstated the Sole private respondent from the post of Anganwari Sewika in Centre Code No. 98 Panchayat Banbira Block, Morwan in the District of Samastipur and petitioner’s appointment against said post was cancelled without giving opportunity of being heard to her.

Further, the respondents may be directed to reinstate henceforth the petitioner from the said post who has been validly selected in a meeting held on 29.01.2010 in the

Chairmanship of respondent No. 7 and no irregularity as alleged has been committed during whole selection process.”

2. Learned counsel for the petitioner, has submitted that the termination of the services of the petitioner by the impugned order passed by the C.D.P.O., on 22.07.2015, is not only without jurisdiction but also in violation of the principles of natural justice. He has further submitted that as a matter of fact appointment of the petitioner was made in the year 2010, on the post of Anganbadi Sevika at Centre No. 98 in Banbira Panchayat, Morwan Block in Samastipur district and the performance of the petitioner was absolutely satisfactory but then all of a sudden her appointment had been cancelled to accommodate respondent no. 8.

3. On the other hand, learned counsel for the State has defended the impugned order by explaining that it was respondent no. 8, who was initially appointed on the post of Anganbadi Sevika at the aforesaid Centre No. 98 and her appointment was cancelled in violation of the principles of natural justice, whereafter she had moved



this Court in C.W.J.C No. 11996 of 2011 and this Court had quashed the termination order by following the ratio of the Division Bench in the case of **Smt. Sajjan Devi & Ors vs State of Bihar & Ors** reported in **2004(2) PLJR 833**. He, accordingly, submits that as a result of quashing of the order of termination of the services of respondent no. 8, she was entitled to be reinstated in service and that precisely has been done by the C.D.P.O., keeping in view that the petitioner was only the replacement of respondent no. 8.

4. In the considered opinion of this Court, once it is an admitted fact that it was respondent no. 8, who got initially appointed on the post of Anganbadi Sevika at Centre No. 98, and this Court had quashed the order of termination as a result whereof, she got the benefit of reinstatement, the petitioner had to make place because she was only replacement of respondent no. 8. Let it kept in mind that the post of Anganbadi Sevika is not a Government post and in fact it is only an arrangement

made to carry out the Government social welfare schemes. For such engagement and termination the proviso to Article-311(2) of the Constitution of India, cannot be made applicable.

5. When this part of order has been dictated, learned counsel for the petitioner wants to withdraw this application in order to enable the petitioner to file an appeal.

6. That being so, this application is permitted to be withdrawn with the aforementioned liberty.

(Mihir Kumar Jha, J)

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