

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11909 of 2015

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Kavita Kumari w/o Subodh Kumar, r/o Village + P.O. Baksama, P.S. Goraul, District Vaishali.

.... Petitioner/s

Versus

- 1.The State of Bihar through the Commissioner cum Secretary, Department of Social Welfare, Government of Bihar, New Secretariate, Patna.
- 2.The Director, Department of Social Welfare, Government of Bihar, New Secretariate, Patna.
- 3.The Deputy Director Welfare, Tribute Division, Muzaffarpur.
- 4.The District Magistrate, Vaishali.
- 5.The District Programme Officer, Vaishali.
- 6.The Sub-Divisional Officer, Goraul, Vaishali.
- 7.The Block Development Officer, Goraul Block, District Vaishali.
- 8.The Child Development Programme Officer, Goraul Block District Vaishali.
- 9.Smt. Rajan Kumari, Sevika Anganbari Center No. 107, Pariyojana-Goraul, District Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar, Adv

For the Respondent/s : Mr. Rajiv Roy, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 05-08-2015 Heard learned counsel for the parties.

2. While this Court would not find any merit in the submission of learned counsel for the petitioner that the impugned order passed by the appellate authority directing for restoring the services of respondent no. 9 on the post of Anganbadi Sevika is bad, only because the petitioner was not given an opportunity of hearing by the appellate authority, this Court would definitely give the liberty to the petitioner to represent her case before the District



Programme Officer (Establishment) that on account of division of the ward and shifting of the anganbadi centre, her appointment without disturbing respondent no. 9 on the post of Anganbadi Sevika could still be retained and continued.

3. This Court is conscious of the fact that when respondent no. 9, was terminated from service on 07.02.2012 under the order of the District Programme Officer (Establishment) and she had filed her appeal before the appellate authority, the appointment of the petitioner came to be made on 10.05.2012 in place of Respondent no. 9 and therefore if in course of the Respondent no. 9 pursuing her appeal became successful she had to be restored back on her place even if it meant displacement and/or removal of the petitioner.

4. This Court also does not find any merit in the submission that the petitioner was required to be joined as a party by respondent no. 9 in her appeal because at that point of time the petitioner was nowhere in the picture, and therefore, the impugned order can not be held to be bad for



the petitioner of being not heard by the appellate authority while restoring respondent no. 9 in service but then as legitimate expectation has cropped by virtue of continuing of the petitioner on the post of Anganbadi Sevika for about nearly three years, this Court would only direct the District Programme Officer (Establishment) to examine the aspect as to whether the services of the petitioner can be retained without disturbing respondent no. 9.

5. It is made clear that if there is any possibility of retaining only one person, it is respondent no. 9, appointed earlier, and also now having the order of the appellate authority in her favour shall have the precedence, but if both the petitioner and respondent no. 9, on account of change of anganbadi centre can still be continued, this Court would expect the competent authority to also accommodate the petitioner.

6. With the aforementioned limited observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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