

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.858 of 2014**

**IN**

**Civil Writ Jurisdiction Case No. 22050 of 2012**

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Suganti Devi @ Suganti Kumari W/o Shri Yogendra Ram Bari Sevika Center No. 17 of Babhanauli Anusuchit Tola Basti of Village Babhanauli, P.O. and P.S. and Anchal Mairwa, District Siwan.

.... .... Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director Integrated Child Development Scheme (I.C.D.S.), Bihar, Patna.
3. The District Magistrate, Siwan.
4. The District Program Officer I.C.D.S., Siwan.
5. The District Welfare Officer, Siwan, District Siwan.
6. C.D.P.O. Mairwa, District Siwan.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Chandra Kant

For Respondent nos. 1 to 4 : Mr. Rabindra Kumar Priyadarshi, SC 32

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE SUDHIR SINGH**

ORAL JUDGMENT

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 30-06-2015**

The appellant feels aggrieved by the order dated 21.2.2014 passed by the learned Single Judge in CWJC No. 22050 of 2012. She filed the writ petition challenging the order dated 29.5.2012 through which the District Programme Officer, Siwan, 3<sup>rd</sup> respondent, removed her from the office of Anganwari Sevika. The learned Single Judge dismissed the writ petition.

The relevant facts are as follows.

The appellant was appointed as Anganwari Sevika for Anganwari Centre no. 17 of village Babhanauli in the district of Siwan, on contractual basis. On 25.4.2012, the Anganwari Centre was inspected by a team of officers and certain irregularities on the part of the appellant were noticed. A copy of the report, together with the show cause notice was served upon the appellant, by the 3<sup>rd</sup> respondent. The appellant in turn, submitted her explanation. Taking the same into account, the 3<sup>rd</sup> respondent removed her from service through his order dated 29.5.2012. The said order of removal was challenged by the appellant by preferring an appeal before the District Magistrate, Siwan. The same was rejected through order dated 7.9.2012.

The principal ground urged by the appellant before learned Single Judge as well as before us is that the order of removal passed by the 3<sup>rd</sup> respondent is bereft of any reasons and that the order passed by the Collector of the District cannot cure the basic defect in the original order. Reliance is placed upon the order dated 19.2.2013 passed by a learned Single Judge of this Court in CWJC No.18922 of 2012 and order dated 20.9.2013 in CWJC No. 18898 of 2012 and the judgment in the case of **Manjula Kumari vs State of Bihar [2013(1) PLJR 901]**.

Heard Sri Chandra Kant, learned counsel for the appellant, and Sri R K Priyadarshi, learned counsel for the respondents.

It is true that the disciplinary authority is required to furnish reasons in support of his order, imposing punishment on an employee. That, however, is a requirement when the appointment is governed by a set of Rules, or to a civil service. In appointment of this



nature, punishment can be imposed only after conducting departmental enquiry. Once a report is submitted by the enquiry officer, the disciplinary authority is required to apply his mind to the findings therein as well as the explanation that may be submitted by the employee. In the instant case, the appointment is purely contractual in nature and it is governed by the departmental guidelines issued on 4.11.2011. Clause 10.5 of the guidelines is to the effect that whenever any acts of irregularities are noticed against Anganwari Sevikas or Assistant, the Programme Officer shall pass appropriate orders within 30 days. Clause 10.6 is to the effect that an aggrieved party can prefer appeal within 30 days before the District Collector. Barring this, there is no requirement to initiate the enquiry. All the same the basic compliance with principles of natural justice must be ensured.

In the report submitted by the inspecting team that visited the Anganwari Centre, where the appellant is working, as many as six irregularities were pointed out, ranging from the appellant being not in proper uniform, to the absence of signboard, and from absence of list of wards that are being taken care of, to the absence of food materials in the Centre. The explanation submitted by the appellant was almost in the form of admission on several important aspects. The appellant is reported to have stated that she did not wear the uniform because it became dirty, that the signboard has been thrown out due to wind and that the children left the Centre by 12 noon. The allegation that no particulars of beneficiaries were displayed is not denied. Taking these facts into consideration, the 3<sup>rd</sup> respondent passed the order by referring to the show cause notice together with the report of the inspecting team and explanation.

In the appeal preferred by the appellant before the

District Magistrate, thorough and exhaustive discussion was undertaken in relation to each and every conduct. It is not even pointed out as to how the conclusions to which the authorities arrived at are incorrect or perverse.

We have perused the order dated 19.2.2013 in CWJC No. 18922 of 2012. The learned Single Judge had proceeded on assumption that there is no remedy of appeal against the order of removal and the order passed in appeal cannot cure the basic defect. However, the fact that the guidelines provided for appeal was not taken note of. Added to it, the principles, applicable to the regular and civil servants was pressed into service. When the appointment itself is contractual in nature and the guidelines provided the manner in which the Programme Officer can remove Anganwari Sevikas, the Court cannot add new dimension to it. In case the guidelines or the Rules are not valid, the aggrieved person can challenge the same being violative of any particular law. That not having been done by the appellant the Court can ignore the same. Similar view was expressed in the order dated 20.9.2013 passed in CWJC No. 18898 of 2012 on the same line.

The judgment in the case of **Manjula Kumari** (supra) was in a totally different context. In that case, the Head of the department in the State, i.e. the Director, passed an order requiring the Programme Officer to take action against the Anganwari Workers. This Court took the view that once the superior authority has taken a decision to remove the Anganwari Workers, the appointing authority is left with no option. It is a case of usurpation of power by the superior authority or abdication of power by the inferior authority. The same does not exist in this case.

In the instant case, we find that the lapses pointed against the respondent were not denied and the order of removal was

passed after following the principles of natural justice and in accordance with the guidelines.

We, therefore, dismiss this Appeal.

Interlocutory Application, if any, shall stand disposed of.

There shall be no order as to costs.

**(L. Narasimha Reddy,CJ)**

**(Sudhir Singh, J)**

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