

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15645 of 2015

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Mamta Kumari W/o Indrajeet Kumar Resident of Bakhari Barai, P.O.
Bakhari Supayan, P.S. Rajapakar, District Vaishali.

.... Petitioner

Versus

1. The State of Bihar.
2. The Director, Interpreted Child Department Scheme, (I.C.D.S.), Bihar, Patna.
3. The Deputy Director Welfare, Tirhut Division, Muzaffarpur, District Muzaffarpur.
4. The District Magistrate, Vaishali.
5. The District Programme Officer, Vaishali at Hajipur.
6. The Child Development Project Officer, Raja Pakar, District Vaishali.
7. Smt. Sharmila Kumari W/o Bhola paswan Resident of Bakhari Barai, P.O. Bakhari Supayan, P.S. Rajipakar, District Vaishali.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sri Krishna Ranjan

For the Respondent/s : Mr. Mithilesh Kumar Pathak

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 01-10-2015 Heard learned counsel for the parties.

Having regard to the admitted position that the petitioner came to be appointed after termination of service of one Sharmila Kumari on the post of Anganwari Sahaika on the same centre and that the order of termination of Sharmila Kumari was ultimately set aside by the appellate authority, the petitioner cannot claim her continuation in service on the post earlier held by Sharmila Kumari.

The only plea being now raised that the petitioner was not given any opportunity and that she was not made party in the appeal filed by Sharmila Kumari is neither here nor there.

Sharmila Kumari got terminated from the service by an order on 02.06.2012 and at that point of time the petitioner was nowhere on the scene. In fact the petitioner came to be appointed on 8.6.2013 and therefore, if Sharmila Kumari was already pursuing her remedy by way of appeal before the appellate authority and the appellate authority has decided her appeal in her favour, the petitioner cannot claim any right to be heard in that appeal.

At the end of the day the post of Anganwari Sevika/ Anganwari Sahaika is not a post of Government servant. Article 311(2) of the Constitution of India is not applicable for such contractual appointment which in fact is in relation to social beneficial schemes.

In that view of the matter, this Court does not find any reason now to interfere with the order of removal of the petitioner which in the facts and circumstances, as explained above, is most proper and correct.

That being so, this application fails and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

surendra/-

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