

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.651 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 21656 of 2012

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Lilawati Devi W/o Shri Harendra Baitha R/o Village Angauta, P.S- Nautan,
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 Child Development Project Officer, Siwan.

.... Respondent/s

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Appearance :

For the Appellant : Mr. Chandra Kant, Advocate.

For the Respondents :

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 20-07-2016

The order dated 20.02.2014 passed by the learned Single Bench is the subject matter of challenge in the present Letters Patent Appeal. By the aforesaid order, the order of removal of the petitioner as Anganwari Sevika on 13th August, 2012 was not interfered with.

The appellant was served with a show cause notice on 15th February, 2012 to explain alleged irregularities in her working as Anganwari Sevika. The irregularities are that on 20th January, 2012 at 12.45 noon , the Inspecting authorities went to the Centre to inspect



it. The appellant was found absent and only 7 children were there and they were not provided their morning breakfast. The appellant does not take care of the Centre as another charge. The appellant submitted her reply and controverted the basis of issuance of the show cause notice. It was the stand of the appellant that she left Centre at 12.55 noon as she had gone to village Mairwa to do withdraw money from the Bank for purchase of ration for the Centre. The District Programme Officer passed an order on 13th August, 2012 to dispense with the services of the appellant on the ground that the reply submitted by the appellant was not satisfactory. However, in appeal against the said order, the Collector - District Magistrate passed an order on 13th August, 2012, after hearing the arguments raised by learned counsel for the parties. The Appellate Authority found that the allegations against the appellant are of serious in nature and thus the appellant left her Centre without informing any senior with 7 children who were not given their snacks. The children were not given morning snacks. The appellant was not taking steps for increasing the strength of the children and her conduct is of gross negligence. It is the said order which was not interfered with by the learned Single Bench in the order under appeal.

Learned counsel for the appellant refers to a Division Bench judgment of this Court in the case of **Umesh Chandra Dinesh**



Kumar v. The State of Bihar and Others reported as [1999(1) ***BLJ*** 548] as well as the learned Single Bench order of this Court in C.W.J.C. No. 18922 of 2012 decided on 19th February, 2013 and also the order passed in C.W.J.C. No. 20171 of 2012 decided on 8th July, 2013 wherein, the order passed by the District Programme Officer has been set aside for the reason that it is non speaking and cryptic order.

The argument of learned counsel for the appellant is that the order of the District Programme Officer is non speaking order, therefore, the Appellate Authority while hearing the appeal cannot supplement the reasons in its appellate order. Therefore, the entire process of removal initiated by the District Programme Officer violates the principles of natural justice.

We have heard learned counsel for the parties and find no merit in the present appeal. A perusal of the records shows that the appellant was served with a detailed show cause notice inter-alia pointing out that her act of leaving the Centre and that the children were not given any snacks, is a misconduct. The appellant accepts that she left station but submitted an explanation that she went to withdraw cash to purchase ration for the Centre. If that be the situation, the appellant could very well inform her seniors to enable them to make the alternative arrangement as 7 children in the Centre

were without morning snacks. It is also found that the mere fact that there were 7 children in the Centre shows the lack of attention and care which was required to be extended by the Anganwari Sevika, such as the appellant.

Therefore, though it would been better if the District Programme Officer had given some reason but keeping in view the stand of the appellant, the order passed cannot be said to be illegal. The Appellate Authority has considered the reasons leading to the issuance of the show cause notice and explanation and maintained the order of removal. The principles of natural justice cannot be put in a straight jacket. Such principles have to applied in view of the facts of each case. Where the reasons of removal were disclosed to the appellant which the appellant has not disputed in her reply, therefore, it cannot be said that there was any violation of principles of natural justice in passing of the order of removal by the District Programme Officer.

The orders passed in two cases i.e. C.W.J.C. No. 18922 of 2012 and C.W.J.C. No. 20171 of 2012 are in their own facts where the order of the District Programme Officer was found to be mechanical and there was no speaking order by the Appellate Authority. We do not find such judgment providing any assistance to the arguments raised in the facts of the present case. The judgment in

Umesh Chandra Dinesh Kumar (supra) case relates to cancellation of a license granted to the writ petitioner under the provisions of Bihar Trade Articles (Licenses Unification) Order, 1984. In the aforesaid case, the licensee has given an explanation but still without considering the explanation, the license was cancelled. It was in the facts of the aforesaid case, the Court interfered with the order passed but in the present case the absence of the appellant from the Centre is admitted. Once the absence is admitted and the fact that the children were without any morning snacks is sufficient reason to discharge contractual engagement of Anganwari Sevika.

We do not find any merit in the present Letters Patent Appeal and the same is accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/P.Kumar

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