

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7213 of 2015

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Ranju Kumari, W/o Birendra Kumar, Resident of Village- Latraha, P.S. + District- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
2. The Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
3. The Director, I.C.D.S., Bihar, Patna.
4. The Divisional Commissioner, Koshi Division, Saharsa.
5. The Deputy Director (Welfare), Koshi Division, Saharsa.
6. The District Magistrate, Supaul.
7. The District Programme Officer (I.C.D.S.), Supaul.
8. The Child Development Project Officer (C.D.P.O.), Supaul.
9. The Lady Supervisor (I.C.D.S.), C.D.P.O. Office, Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra

For the Respondent/s : Mr. Sanjay Kumar Ojha, AC to GP-7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 19-11-2016

Heard Mr. Pramod Mishra, learned counsel appearing for the petitioner and Mr. Sanjay Kumar Ojha, learned Assisting Counsel to Government Pleader No.7 for the State.

The petitioner held the post of Anganwari Sevika, Centre No.235 at Village- Amaha Latraha in the district of Supaul and her services were terminated under the order of the District Programme Officer, Supaul bearing Memo No.1476 dated 8.10.2012, a copy of which is present at Annexure-4 to the writ petition. The order of the District Programme Officer has been

affirmed by the Appellate Authority i.e. the Deputy Director, Welfare, Koshi Divisiona, Saharsa by his order passed on 21.1.2015 in Anganwari Appeal Case No.56-122 of 2012 impugned at Annexure.5.

Mr. Mishra, learned counsel appearing for the petitioner has submitted that for a single day absence from the centre that the extreme penalty of dismissal has been passed. He refers to the enquiry report present at Annexure-2 which reported that the centre was found closed on 23.3.2012 and which led to issuance of a show cause notice by the District Programme Officer vide Annexure-3 and despite the cause shown, the services of the petitioner have been terminated by the orders impugned.

Learned counsel has referred to a Bench decision of this Court reported in **2011(3) PLJR 140 (Punam Kumari vs. The State of Bihar)** to submit that termination for a single day absence has found to be extremely harsh. He further submits that no third party rights have been created inasmuch as no appointment has been made in the meanwhile.

Mr. Ojha, learned counsel appearing for the State while contesting the argument has submitted that the explanation given by the petitioner in support of her absence, was found to be forged.

Having heard learned counsel for the parties and



considering the circumstances in which the services of the petitioner have been terminated for a single day absence, in my opinion, the District Programme Officer ought to have been more pragmatic and in absence of accompanying circumstances reflecting continued breach by the petitioner in running the centre, a mere single day absence is not found sufficient enough for imposition of extreme penalty of dismissal, The opinion expressed by this Court is supported in the case of **Punam Kumari** (supra).

In result the order of termination bearing Memo No.1476 dated 8.10.2012 and the appellate order dated 21.1.2015 passed in Anganwari Appeal Case No.56-122/2012 cannot be upheld and are accordingly quashed and set aside.

The writ petition is allowed. The petitioner stands restored on her post.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	30-11-2016
Transmission Date	NA