

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1100 of 2013

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BEBI DEVI W/O RAJESH SHARMA RESIDENT OF VILLAGE-
BHOPATPUR BASANTPUR BHARTHIYA, P.O.- SHARIF JALALPUR,
P.S. + BLOCK- LAKARI NAVIGANJ, DISTRICT- SIWAN

... .. Petitioner/s

Versus

1. The State Of Bihar Through Chief Secretary
2. The Collector, Siwan
3. The District Programme Officer, Siwan
4. The Child Development Programme Officer, Siwan

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 1100 of 2013)

For the Petitioner/s : Mr. Raj Kishore Prasad

For the Respondent/s : Mr. KAUSHAL KR. JHA

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 26-02-2018 Heard learned counsel for the petitioner
and learned counsel for the State.

2. Petitioner is an Anganwari Sahayika, who is aggrieved by the order dated 29.02.2012 passed by the District Programme Officer, Siwan as well as order dated 13.08.2012 passed by the Appellate Authority i.e. Collector, Siwan by which the District Programme Officer, Siwan has cancelled the selection of the petitioner at Centre No. 35 from the post of Anganwari Sahayika and the appeal preferred by the petitioner has been dismissed by the Collector.

3. The petitioner was selected on the post of Sahayika at Centre No. 35, after completion of all procedures as



provided in the guidelines issued by the ICCDS and selection letter was issued to her on 02.06.2007.

4. It has been submitted that on 14.01.2012 Anganwari Centre was inspected by the CDPO and she found that petitioner was absent from the centre and no application for grant of leave was given by her and centre was closed and on such irregularities being found by the CDPO, the Inspecting Authority, she recommended for cancellation of Selection of the petitioner to the District Programme Officer by her letter dated 04.02.2012. The District Programme Officer, the appointing authority, issued a show cause notice dated 13.02.2012 to the petitioner to submit a reply with respect to her absence on the centre on 14.01.2012 when centre was inspected by the CDPO and she submitted a report that the centre was closed and no application for leave was filed by the petitioner.

5. Petitioner submitted her reply in which she had stated that her 3 years son suddenly became ill and she took her son to Primary Health Centre, Lakri, Naviganj and got him treated there and she had informed Sevika but the Sevika could also not report on her duty at the centre on the said date when the inspection was carried out by the CDPO. In support of her contention, the petitioner had also enclosed a medical certificate



issued by the doctor of Primary Health Centre which certified that the son of petitioner was ill and was under treatment on 14.01.2012 and he was discharged from the Primary Health Centre on 15.01.2012. Petitioner has been appointed in 2007 itself and she was working there with full devotion and there has been no complaint made against her since her date of appointment and it was the first time when she was found absent on the centre and she has also given a valid reasons for her absence, as such, her absence should not be treated as deliberate or willful but same was because her son suddenly became ill and he had to be taken to the Primary Health Centre for his treatment.

6. After hearing the counsel for the petitioner and counsel for the State the order passed by the District Programme Officer as well as the order by the District Magistrate, Siwan cannot be sustained and for one day absence, that too, for a valid reason, the appointment of petitioner cannot be cancelled as she is working on the post of Anganwari Sahayika since her appointment in 2007 and there has been no complaint or allegation made against her regarding her function and performance as an Anganwari Sahayika.

7. Counsel for the petitioner relies upon a judgment



and order dated 05.12.2012 passed in C.W.J.C. No. 11519 of 2012 (Sita Kumari Versus State of Bihar) in which under similar circumstances termination of service on absence on single day has been set aside by this Court with order of reinstatement.

8. The order of her removal by D.P.O. as well as order by District Magistrate is set aside. Petitioner is directed to be reinstated, however without back wages.

9. The writ petition is allowed.

(S. Kumar, J)

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