

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5017 of 2013

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Reena Kumari D/o Shri Umesh Prasad Singh, resident of Panapur Silathar, P.O. Kalaphaar, P.S. Jandaha, District Vaishali, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna.
4. The District Superintendent of Education, Vaishali.
5. The Project Director, Bihar Educational Project Council, Sarva Shiksha Aviyan, Rajbhasha Parishad, Saidpur, Patna.
6. The District Programming Officer, Sarva Siksha Abhiyan, Bihar Education Programme, Vaishali.
7. Block Education Officer, Desri, Vaishali.
8. Principal, Kasturba Gandhi Balika Vidyalaya, Kanya Madhya Vidyalaya, Desri, Vaishali.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Aditya Sahay, Adv.
For the State : M/s Kaushal Kr. Jha and Shankar Kr. Choudhary, Advs.
For the B.E.P.C. : Mr. Girijesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 03-03-2016

Heard learned counsel for the petitioner, State and the Bihar Education Project Council.

The petitioner was appointed on contract basis on the post of Assistant Cook in Kasturba Gandhi Balika Vidyalaya, Desri (Vaishali) for one year. The period started from 20th June 2009 to 19th June 2010.

During the subsistence of the service, it has been claimed



by the petitioner that while she was going to school on 7th November 2012, she was kidnapped by two unknown persons and she was rescued on 20th December 2012. When she was released from confinement, she approached the Head master for her reinstatement and joining but every time, the Head master evaded and avoided to give any positive response. She filed representations on different occasions, but always she turned deaf ear, ultimately, vide memo no. 499 dated 09.03.2013, the order has been passed by the District Programme Officer, Sarva Siksha Abhiyan, Vaishali whereby service of the petitioner has been terminated on account of long absence from the school.

The counsel for the petitioner submits that the absence of the petitioner was beyond her control as she was kidnapped by two unknown persons and was kept her in confinement.

The counsel for the State has drawn attention of this Court to the letter dated 27th November 2012 written by Warden, KGBV, Desari to the Principal, Kanya Madhaya Vidhayalaya, Desari (Vaishali) where she has given information that the petitioner had gone along with one Mukesh Kumar in connection with love affairs and if she would be brought at hostel, it will create a bad impression and will have demoralising effect, but that ground was not taken while passing the order, only the authority has taken ground of her long

absence, so much so that the counsel for respondent submits that contract period of her service is over which was only for one year, now in 2016, she cannot enforce her reinstatement in view of fact, the appointment was made for contract basis for fixed period which is already over and in support of submission the respondent has placed reliance on the order passed in C.W.J.C. No. 21442 of 2012 and also placed reliance on different orders passed by this Court where it has been held that the persons, who are appointed on contract basis, cannot claim protection under Article 311 of the Constitution of India, as the contract of service comes to an end on account of efflux of time.

In such view of the matter, this Court is of the view that no relief can be granted to the petitioner on merit as well as on the ground of period of contract of service is no longer in existence on account of efflux of time and as such the prayer to allow to do the work cannot be accepted.

Accordingly, this petition is dismissed.

(Shivaji Pandey, J)

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