

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.126 of 2016

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Rukha Devi, W/o Mankeshwar Yadav, resident of Village - Chilhapti, P.O. - Sukul
Pakar, P.S. - Sugouli, District - East Champaran (Motihari).

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Social Welfare, Govt. of Bihar, Patna.
2. Director, I.C.D.S., Govt. of Bihar, Patna.
3. Deputy Director, Welfare, Tirhut Division, Muzaffarpur.
4. District Programme Officer, Motihari, East Champaran.
5. Child Development Project Officer, Sugouli, East Champaran.

... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandra Shekhar Anand, Advocate

For the Respondent/s : Mr. N.H. Khan, SC-1

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 19-09-2016

Heard Mr. Chandra Shekhar Anand, learned counsel
appearing for the petitioner and Mr. N.H. Khan, learned Standing
Counsel No.1 for the State.

With the consent of the parties the matter has been taken
up with a view to its final disposal at the stage of admission itself.

The petitioner is aggrieved by the order of termination
passed by the District Programme Officer bearing Memo No.702
dated 12.12.2013 impugned at Annexure-5 which has been affirmed
by the Deputy Director (Welfare) by order dated 21.1.2015
impugned at Annexure-6 whereby the appeal preferred by the
petitioner bearing Service Appeal No.154 of 2014 has been
dismissed.



It is the argument of Mr. Anand, learned counsel appearing for the petitioner that for a single day absence, the petitioner who held the post of Anganbari Sahayika at Centre No.81, Pariyojana-Sugauli, District- East Champaran, has been terminated. He submits that although for a similar default even the Anganbari Sevika was removed and who approached this Court in CWJC No.4835 of 2014 but under the orders of this Court, the matter was remitted for fresh consideration by the District Programme Officer and on remand and reconsideration of the matter, the removal order of the Anganbari Sevika has been set aside. The brief argument advanced by Mr. Anand is that since for identical default, both the Anganbari Sevika as well as the petitioner, was removed and since the Anganbari Sevika's default has been condoned, she needs similar consideration.

A counter affidavit has been filed in which the position regarding the single day absence of the petitioner is admitted. It is also not in dispute that the Anganbari Sevika has been reinstated.

Having heard learned counsel for the parties and considering the uncontested position reflecting from the pleadings on record, in my opinion the termination order of the petitioner is unsustainable and has to be quashed. The reason is two fold and that is:

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NO
- a) No one can be terminated for a single day absence. A termination for single day absence is an extreme measure and cannot be resorted until such time where the person concerned is rated a habitual defaulter or the single day absence has resulted in irreversible consequence; which is not the case at hand.

b) The Anganbari Sevika having been restored to her post after being removed for same default, the petitioner is also entitled for the relief so granted to the Anganbari Sevika.

In result the orders dated 12.12.2013 passed by the District Programme Officer together with the order dated 21.1.2015 passed by the Deputy Director (Welfare) impugned at Annexure-5 and 6 respectively to the writ petition cannot be upheld and is accordingly quashed and set aside.

The writ petition is allowed.

The petitioner is restored to her post of Anganbari Sahayika.

(Jyoti Saran, J)

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AFR	
CAV DATE	
Uploading Date	30.9.2016
Transmission Date	