

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6597 of 2010

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1. Laxmi Devi W/O Manoj Kumar Singh, Centre-Munshidihari, Panchayat - Rajpur, Code No.144, P.S.Natwar, Distt-Rohtas
 2. Savita Devi W/O Ajay Kumar Singh, Centre-Natwar Kalan Panchayat - Tenuaj, P.S.Natwar, Distt-Rohtas
 3. Kiran Devi W/O Kumar Ravi Ranjan, Centre-Arang II, P.S.Dinara, Panchayat-Arang, Code No.102, Distt-Rohtas
 4. Sushila Devi W/O Santosh Kumar Singh, Centre-Chorpokhar English I, Panchayat -Mednipur, Code No. 23, P.S.Dinara, Distt-Rohtas
 5. Sandhya Devi W/O Nitya Nand Singh, Centre -Dihara, Panchayat-Samahuti, Code No.85, P.S.Dinara, Distt-Rohtas
 6. Sunita Devi W/O Santosh Kumar, Centre -Nadwan, Code No.139, Panchayat -Maharor, P.S.Natwar, Distt-Rohtas
 7. Sandhya Devi W/O Kalika Nand Ojha, Centre-Moudihara, Code No.142, Panchayat -Rajpur, P.S.Natwar, Distt-Rohtas
 8. Devanti Devi W/O Sushil Kumar Singh, Centre -Tenuath, Code No.161, Panchayat -Haribanshpur, P.S.Dinara, Distt-Rohtas
 9. Pushpa Devi W/O Binod Kumar Singh, Centre -Jamodhi, Code No.145, P.S.Natwar, Distt-Rohtas
 10. Nirmala Devi W/O Nand Kumar Singh, Centre-Asian, Code No.146, Panchayat -Rajpur, P.S.Natwar, Distt-Rohtas
 11. Anita Devi W/O Dinesh Singh, Centre -Sundarvan, Code No.47, Panchayat-Bhanpur, P.S.Dinara, Distt-Rohtas

.... Petitioners

Versus

1. The State of Bihar
2. Principal Secretary, Social Welfare Department Govt. of Bihar
3. Director, Integrated Child Development Scheme, Indra Bhawan, Bailey Road, Patna
4. District Magistrate, Rohtas
5. District Programme Officer, Rohtas, Sasaram
6. Child Development Project Officer, Dinara

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Avinash Shekhar, Adv.
Mr. Surendra Kr.Singh, Adv.
Mr. Anirudh Kumar Singh, Adv.

For the Respondent/s : Mr. None.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 08-04-2017

Heard Sri Avinash Shekhar, learned counsel,
assisted by Sri Anirudh Kumar Singh, learned counsel for the



petitioners. None appeared on behalf of the State.

Eleven petitioners have approached this Court, invoking its writ jurisdiction under Article-226 of the Constitution of India, with a prayer to direct the Respondents to pay them salary/stipend for the period from 01.10.2008 to 21.11.2009, during which period, petitioners were kept out of job.

Short fact of the case is that petitioners were earlier selected as Anganbari Sevika in different Anganbari Centres of Dinara Block. On the ground that they had not participated in Pulse Polio Programme, by order contained in Memo No.711 dated 01.10.2008 (Annexure-2 to the writ petition) the District Programme Officer recommended for discharging them from functioning as Anganbari Sevikas and the Child Development Project Officer, Dinara (hereinafter referred to as “C.D.P.O.”) was directed to issue notice regarding their removal.

It was submitted by learned counsel for the petitioners that thereafter vide letter no.149 dated 20.10.2008 issued by the C.D.P.O. (Annexure-3 to the writ petition), petitioner no.1 was discharged from functioning as Anganbari Sevika. The said letter was issued in view of order dated 01.10.2008 issued by the District Programme Officer. It has also been argued that thereafter, petitioners filed representation and



finally they approached this Court by filing a writ petition vide C.W.J.C.No.7974 of 2009. Before this Court, a plea was taken that of course vide Annexure-2 to the writ petition, Anganbari Sevikas of two Blocks i.e. Dehri as well as Dinara were removed, subsequently, removal of Anganbari Sevikas of Dehri Block was recalled and they were allowed to function as Aanganbari Sevika. This Court after hearing the matter, by an order dated 14.07.2009 passed in C.W.J.C.No.7974 of 2009 (Annexure-7 to the writ petition), disposed of the writ petition granting liberty to the petitioners to represent before the District Magistrate, Sasaram, who was directed to consider the same in accordance with law and allow the similar treatment, which was allowed to Anganbari Sevikas of Dehri. The representation of the petitioners was directed to be disposed of within specified time. According to learned counsel for the petitioners, in compliance of the order of the writ court, the District Magistrate-cum- Collector, Rohtas at Sasaram registered a case vide Misc. Case No.04/2009 and considered removal of the petitioners as incorrect and directed to reinstate them as Anganbari Sevikas. It was also directed that during the intervening period, even if any other persons were selected as Anganbari Sevika, they were ceased to function as Anganbari Sevika. After the order of the District Magistrate,



contained in Memo No.2291 dated 21.11.2009 (Annexure-8 to the writ petition), as submitted by learned counsel for the petitioners, petitioners were allowed to join and start functioning as Anganbari Sevika. It was submitted by learned counsel for the petitioners that since the petitioners were prevented unauthorisedly to function as Anganbari Sevika, during the intervening period petitioners were entitled to get salary/stipend and, as such, a direction is required to be issued for payment of salary /stipend for the said period to the petitioners.

Besides hearing learned counsel for the petitioners, I have also perused the materials available on record. In this case, earlier a counter affidavit was filed on behalf of Respondents. However, without getting any notice of the counter affidavit, at the very outset, it is necessary to indicate that in the order of the District Magistrate-cum-Collector, whereby direction was issued to reinstate Anganbari Sevikas i.e. petitioners in last but two paragraphs running page-37, the District Magistrate has categorically indicated that Anganbari Sevikas were being given only honorarium for their works. It was further indicated that since they had not worked during the Pulse Polio Programme and had not functioned during the intervening period, hence they were not entitled to get any honorarium for the said period. It is true that in



compliance with the order of the District Magistrate i.e. Annexure-2 , petitioners were allowed to function as Anganbari Sevika, but fact remains that for functioning as Anganbari Sevika , they were not being paid salary, but it was honourarium. In normal course, honorarium is to be given only for the work discharged by particular person. Besides this , once by way of passing an order for reinstatement, it was made clear that for the period, during which they had not worked, they shall not be entitled to get any salary/stipend unless and until the order is challenged, there was no reason to make prayer for directing for payment of honorarium. In the writ petition, only a prayer has been made for making payment of salary/stipend without making any prayer for quashing of part of Annexure-8 to the writ petition, whereby petitioners were debarred from getting any salary/stipend for the period, during which petitioners were kept out of job.

Accordingly, I do not find any ground to pass any favourable order. The writ petition stands dismissed.

(Rakesh Kumar, J)

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