

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3601 of 2014

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Kiran Devi Wife of Sita Ram Raman Resident of Village - Batsar (Harijan Tola),
Police Station - Dhouraiya, District - Banka

.... Petitioner

Versus

1. The State of Bihar through the I.C.D.S., Indira Bhawan, Baily Road, Patna
2. The Collector, Banka in the District of Banka
3. The District Program Officer, Banka in The District of Banka
4. The Child Development Project Officer, Banka in the District of Banka

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajesh Kumar, Advocate.
Mr. Ranjan Kumar Singh, Advocate.
For the Respondents : Mr. GP-27 Purnendu Singh
For the State : Mr. R. Das, AC to AAG-8

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 17-07-2017

Heard both sides.

2. The petitioner has filed this petition for quashing the order dated 26.08.2013 by which the Collector Banka in Anganwari Appeal Case No. 146/2012-13 (Annexure-1), confirmed the order dated 13.04.2012 contained in Memo No. 499 (Annexure-1/1) issued by the District Program Officer, Banka by which the service of the petitioner has been terminated.

3. The petitioner was working as Anganwari Sevika at Anganwari Kendra Batsar II, Harijan Tola Dhouraiya, Banka, Centre No. 152 since November, 2009. The District Program Officer, Banka



vide his Letter No. 268 dated 17.02.2012 (Annexure-6) directed the petitioner to appear and show cause as she was found absent on 22.10.2011 when Child Development Project Officer, Shambhuganj inspected the centre. The petitioner filed her show cause on 16.03.2012 as contained in Annexure-7 stating therein that she left her house about 9:00 am and she was collecting the children but, in the meantime the inspection was made, Poshahar was not made available to the centre since 19.10.2011, but the District Program Officer, Banka vide Memo No. 499 dated 13.04.2012 terminated the service of the petitioner on the ground that she was found absent from the Anganwari centre besides she defalcated and misused the government funds.

4. The petitioner preferred C.W.J.C. No. 12673 of 2012 (Annexure-8) against the order dated 13.04.2012 as contained in Memo No. 499 (Annexure-1/1) issued by the District Program Officer and this Court vide order dated 13.09.2012 (Annexure-8) dispose of the writ petition with a direction to the petitioner to prefer an appeal before the Commissioner and the Commissioner shall dispose of the appeal of the petitioner within one month from the date of receipt/production of a certified copy of this order. The petitioner thereafter preferred appeal before the Commissioner, Bhagalpur but the Commissioner, Bhagalpur referred the matter to the District



Magistrate, Banka for disposal and the District Magistrate, Banka vide order dated 26.08.2013 passed in Anganwari Appeal No. 146/2012-13 (Annexure-1) dismissed the appeal confirming the order of the District Program Officer, Banka (Annexure-1/1).

5. Learned counsel for the petitioner submits that the petitioner was not even absent on 22.10.2011. The petitioner on the same day met Child Development Project Officer, Shambhuganj and apprised the circumstances of her being late and apprised her about non-availability of Poshahar. The petitioner was asked her show cause after four months of the date of the inspection. The petitioner also submitted her show cause but the District Program Officer, Banka without perusing her show cause terminated the service of the petitioner on the ground that the petitioner defalcated and misused the fund of government money meant for Anganwari but no show cause was asked to this effect from the petitioner. Even the Collector Banka in appeal did not consider the grounds. It is further submitted that although the petitioner was not absent on 22.10.2011 but, even if it is found that the petitioner was not present at the time of inspection, one day absence is not a ground for termination of the services of the petitioner. On similar facts this Court in case of ***Ranju Kumari v. The State of Bihar and Ors.*** reported in ***2017 (2) PLJR 405*** has held that termination of services for a day's absence, when the centre was



found closed, is arbitrary and the same does not warrant imposition of extreme penalty of dismissal.

6. Learned counsel for the State submits that the petitioner has got alternative remedy to file review before the Welfare Department, Government of India but, at the same time could not be able to defend the order of termination on the ground that no show cause was asked about any defalcation or misuse of fund from the petitioner and the order of termination shows that the petitioner was terminated besides being absent for one day, on the ground that she has defalcated or misused the fund.

7. Having considered the facts aforesaid, it is evident that the Child Development Project Officer, Shambhuganj inspected the Anganwari Kendra of the petitioner at 9:00 am on 22.10.2011, on the same day the petitioner offered her explanation to the Child Development Project Officer, Shambhuganj but the District Program Officer on the basis of the report of the Child Development Project Officer, Shambhuganj asked show cause from the petitioner on 17.02.2012 vide Memo No. 268 dated 17.02.2012 (Annexure-6). The petitioner submitted her explanation about her absence at 9:00 am from the Anganwari Centre but, the District Program Officer, Banka terminated the services of the petitioner not on the ground of absence only but also on the ground of misuse and defalcation of fund whereas



no explanation was asked for with regard to defalcation and misuse of any fund. The Collector, Banka in appeal did not consider the grounds and summarily dismissed the appeal of the petitioner. The appellate authority is obliged to consider the grounds of the petitioner and passed the order after giving reasons rejecting the grounds of the petitioner. Therefore, I find that the orders are not sustainable and accordingly, the order dated 26.08.2013 passed by the Collector Banka in Anganwari Appeal Case No. 146/2012-13 (Annexure-1) and the order dated 13.04.2012 contained in Memo No. 499 (Annexure-1/1) issued by the District Program Officer, Banka are set aside. Thus, the writ petition is allowed.

(Prabhat Kumar Jha, J)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.08.2017
Transmission Date	NA

