

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7410 of 2014

=====

1. Babita Pandey W/o Sri Santosh Kumar Upadhyay resident of Village- Gosaipur,
P.S- Sahpur, District- Ara. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Social Welfare,
Government of Bihar, Patna.
2. The Director, Integrated Child Development Scheme (ICDS), Department o
Social Welfare, Government of Bihar, Patna.
3. The District Magistrate, Bhojpur at Ara.
4. The District Programme Officer, Bhojpur at Ara.
5. The Block Development Officer, Shahpur, District Bhojpur at Ara.
6. The Child Development Project Officer, Shahpur, District- Bhojpur.
7. The Mukhiya, Gram Panchayat Raj, Simaria Ojhapatti within Block- Shahpur,
District- Bhojpur at Ara.
8. The Panchayaat Secretary, Gram Panchayat Raj, Simariya, Ojhapatti within
Block- Shahpur, P.S- Shahpur, District- Bhojpur at Ara.
9. Binda Devi W/o Sri Om Prakash Upadhyay Resident of Village- Gosainpur, P.S-
Shahpur, District- Bhojpur. Respondents

=====

Appearance :

For the Petitioner: M/S. Subodh Kumar Jha & Sarveshwar Tiwary

For the State : Mr. Rakesh Kr. Srivastava, AC to GP 15

For the respondent No.9: Mr. Sanjay Prakash Verma, advocate

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 16-10-2017

Heard Shri Subodh Kumar Jha, the learned counsel for the
petitioner, the learned counsel for the State and the learned counsel
appearing on behalf of respondent No.9.

The petitioner herein seeks quashing of the order dated
04.03.2014, contained in Annexure-11, issued under the signature of
District Programme Officer, Bhojpur at Ara by which the petitioner was
removed from the post of Anganwari Sevika.

The brief facts is that respondent No.9, Binda Devi, was
appointed on the post of Anganwari Sevika of centre No. 5, Gosainpur,
Gram Panchayat, Simaria, Shahpur in the year 1997 but she was removed
from service on account of some irregularity in distribution of THR (take



home ration). Respondent No.9 filed CWJC No. 5342 of 2010 before this court and this court vide order dated 25.11.2010 directed the respondents to dispose of the representation of respondent No.9 in accordance with law after asking show cause from her and if the respondent No.9 was removed from service without any show cause she be reinstated in service forthwith. In pursuance of the aforesaid order, respondent No.9 was reinstated on the post of Anganwari Sevika on 12.01.2011 but, after considering the show cause of respondent No.9, the District Programme Officer again removed respondent No.9 from the post of Anganwari Sevika on 22.01.2011. Binda Devi, respondent No.9, preferred appeal being Misc. Case No. 64/2010-11 before the Collector, Bhojpur and the Collector, Bhojpur vide order dated 10.09.2013 set aside the order of termination of respondent No.9 passed by the District Programme Officer dated 22.01.2011, as contained in memo No. 35, and ordered for her reinstatement. The District Programme Officer, in pursuance of the order of the Collector, reinstated the respondent No.9 on the post of Anganwari Sevika and cancelled the appointment of petitioner holding that petitioner was not appointed in accordance with law.

The learned counsel for the petitioner submits that the petitioner was not made party in CWJC No. 5342 of 2010 although, after removal of respondent No.9 on 06.05.2008, the petitioner was appointed after following the procedure meant for appointment on the post of Anganwari Sevika in the year 2010. The respondents knowingly did not make the petitioner party in the writ petition. The respondents also did not make the petitioner party in the appeal before the Collector. It is further submitted that the petitioner has got legal right to continue, after being



appointed on the post of Anganwari Sevika, in accordance with law. It is further submitted that the petitioner may be allowed to file appeal against the order of District Programme Officer by which service of the petitioner was terminated, without giving her proper notice. On such, the learned counsel for the State as well as respondent No.9 did not raise any objection.

It appears that respondent No.9 was removed from service on 06.05.2008. Against that order she filed CWJC No. 5342 of 2010 and, in pursuance of the order dated 25.11.2010, passed in CWJC No. 5342 of 2010, she was reinstated in service but again she was removed from the service by the District Programme Officer. Thereafter, she preferred appeal before the Collector and the Collector allowed the appeal and thereafter respondent 9 was again reinstated in service. The appointment of the petitioner was subject to the result of the writ petition or any litigation pending but since the District Programme Officer did not ask any show cause from the petitioner, the matter is remitted to the District Programme Officer, Bhojpur at Ara, to pass order afresh after hearing both sides and, in the meantime, the respondent No.9 shall continue to work as Anganwari Sevika.

With this observation, this writ petition is disposed of.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30.10.2017
Transmission Date	N.A.

