

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1240 of 2014
IN
Civil Writ Jurisdiction Case No. 4932 of 2013**

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1. Malti Kumari W/o- Arvind Kumar Singh, R/O Mohalla- Subhash Nagar 1,
Behind Gate School, P.O. + P.S.- Aurangabad, District- Aurangabad

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna
3. The Commissioner, Magadh Division, Gaya
4. The District Magistrate, Aurangabad
5. The District Welfare Officer, Aurangabad.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajeev Kumar Singh, Advocate

For the Respondent/s : Mr. Avnish Nandan Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 10-07-2017

Seeking exception to an order dated 22.1.2014 passed
by the learned Writ Court in C.W.J.C. No.4932 of 2013, this appeal
has been filed under Clause 10 of the Letters Patent.

Petitioner was initially appointed as an Anganbari
Sevika. However, in the year 2009 her services as an Anganbari
Sevika were terminated on the basis of certain acts of commission
and omission found to have been committed by her when the centre
was inspected by the competent authority. While she was
undergoing the aforesaid punishment, an advertisement was issued



for appointment of Lady Supervisor. When the application of the petitioner was scrutinized, even though she was permitted to appear in the examination, but appointment letter was not issued to her as it was found that her services were terminated as an Anganbari Sevika on 23.5.2009 and according to the policy and instructions issued by the State Government, such a person cannot be appointed.

Inter alia contending that this disqualification or prohibition was not notified in the advertisement and, therefore, it could not be a ground for denying appointment to the petitioner, the writ petition in question was filed.

The learned Writ Court dismissed the writ petition by holding that the disqualification was very much there when the process of selection took place and thereafter on 25.10.2013 by virtue of an order passed by the Appellate Authority, the termination as an Anganbari Sevika was quashed and the petitioner was reinstated in service. However, on the ground that this order dated 25.10.2013 will not remove the disqualification which was already there, the learned Writ Court refused to interfere.

Before us, the only ground canvassed was that as there was no stipulation with regard to any disqualification in the advertisement, Annexure P2, on such ground denial of appointment as a Lady Supervisor is unsustainable. We are unable to accept the



aforesaid contention. Apart from the disqualification, if any, to be notified in the advertisement, there are various other disabilities which prohibit a person from seeking appointment which includes past conduct of the delinquent or his involvement in criminal case or pendency of departmental enquiry etc. These factors need not be notified in the advertisement. They are factors to be considered by the competent appointing authority while issuing appointment and verifying the documents and antecedents of the candidate and, therefore, if considering the fact that petitioner's service as an Anganbari Sevika was terminated, she was not appointed as a Lady Supervisor, which has been upheld by the learned Writ Court, we see no reason to make indulgence in the matter.

The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

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