

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9150 of 2014

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1. Rinki Devi @ Rinki Kumari wife of Vijay Prasad Gupta resident of Village -
Goh, P.S. - Goh, District - Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Social Welfare Department, Bihar, Patna.
3. The Director, I.C.D.S. , Bihar, Patna.
4. The Deputy Director, Welfare, Magadh Division, Gaya.
5. The District Program Officer, Aurangabad.
6. The Child Development Project Officer, Goh, District - Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar
Mr. Sanjay Kumar Sharma
For the Respondent/s : Mr. Utsav Kumar, AC to GA-4

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 31-08-2017

Heard both sides.

The petitioner has assailed the order dated 25.09.2013 passed by the District Programme Officer, Aurangabad (contained in Annexure-4), and the order dated 27.03.2014 (contained in Annexure-6) passed in Appeal No. 68 K/2013, by which the petitioner has been removed from the post of Anganwari Sahaika for absence on one day.

Learned counsel for the petitioner submits that C.D.P.O. inspected the centre of the petitioner on 02.09.2013 at 12.20 P.M., but the centre was found closed. Sevika Kavita Kumari



and Sahaika (the petitioner) Rinki Devi @ Rinki Kumari were found absent. They were called upon to show cause. The petitioner and the Sewika showed their cause that the petitioner and Sevika were present till 12.00 O'clock at the centre, but on account of heavy rain they went to their house, but the District Programme Officer cancelled the appointment of the petitioner as well as the appointment of Anganwari Sevika vide order dated 25.09.2013 (Annexure-4). The petitioner and Anganwari Sewika both preferred appeal, but the Deputy Director, Welfare, Magadh Division, Gaya dismissed the appeal without taking into consideration that one day absence can be condoned and the punishment of dismissal from service is absolutely disproportionate to the charge of absence of one day. It is further submitted that Kavita Kumari, the Sevika, preferred C.W.J.C. No. 8285 of 2014 and this Court vide order dated 14.03.2016 set aside the order of dismissal on the ground that the punishment of dismissal is not proportionate to the charge of absence on one particular occasion.

Learned counsel for the State also did not dispute the facts.

Having considered the aforesaid submissions, I find that the order of termination of the petitioner, for absence of one



day, appears to be disproportionate to the charge. The petitioner offered plausible reason for her absence at the time of inspection of centre on 02.09.2013 at 12.20 P.M. Termination of Kavita has already been set aside by this Court in C.W.J.C. No. 8285 of 2014 and the case of the petitioner is similar to the case of Kavita Kumari.

In view of the facts and circumstances of the case, that the order of punishment is arbitrary and not proportionate to the charge, the order dated 25.09.2013 (contained in Annexure-4) and order dated 27.03.2014 (contained in Annexure-6) are set aside and the writ petition is allowed.

(Prabhat Kumar Jha, J.)

Rakhi

AFR/NAFR	
CAV DATE	N.A.
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