

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7233 of 2014

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1. Amrit Kalash son of Sunil Kumar Choudhary resident of Village - Rasidpur, P.S. Bachhwara, District - Begusarai (Ex- Panchayat Rojgar Sewak, Rudauli Gram Panchayat, Bachhwara Block, District - Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Rural Development Department, Government of Bihar, Patna.
2. The District Magistrate cum District Programme Coordinator, Begusarai.
3. The Deputy Development Commissioner cum Additional District Programme Coordinator, MANREGA Begusarai.
4. Prakhand Vikash Padadhikari cum Prakhand Programme Officer, Bachhwara Block, District - Begusarai.
5. The Executive Engineer, MANREGA Begusarai.
6. The Sub-Divisional Officer, Teghra, District - Begusarai.
7. The Programme Officer, Bachhwara, District - Begusarai.
8. The Panchayat Technical Assistant, Gram Panchayat Rudauli, Bachhwara, District - Begusarai.
9. The Mukhiya, Gram Panchayat Raj - Rudauli, Bachhwara, District - Begusarai.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kaushal Kumar Singh

For the Respondent/s : Mr. Niraj Kumar, advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 01-08-2017

Heard both sides.

The petitioner filed this writ petition for quashing the order dated 14.12.2012, as contained in memo No. 1627 dated 14.12.2012, issued under the signature of Additional District Programme Officer, MANREGA (Annexure-2) by which service of the petitioner as Panchayat Rojgar Sevak has been terminated, cancelling his contract, on account of his absence for more than a week and on the allegation of defalcation.

Brief facts of the case are that the petitioner was selected in pursuance of an advertisement on the post of Panchayat Rojgar Sevak on contract



basis. Bachhwara P.S. case No. 5 of 2012 was registered against the petitioner and others under Section 406, 409, 420 and 120B/34 of the IPC. It is alleged that in execution of scheme No. 1/10-11 for plantation it was found that no Banposhak was appointed on muster roll. No hand pump was found in the area in which forestation was made but money was withdrawn. Even labourers were not paid for watering the plants. It was found that petitioner and others defalcated Rs. 9,03,075/-. Service of the petitioner was terminated on the ground that petitioner was unauthorizedly absent for more than one week.

The State has filed counter affidavit stating therein that petitioner was appointed merely on contract basis temporarily. According to agreement for appointment of the petitioner, annexed as Annexure-A of the counter affidavit, service of the petitioner can be terminated at any time without giving any notice in the event of seven days or more continuous absence from duty without taking permission of the competent authority, which is enumerated in Clause 11 of the agreement.

The learned counsel for the petitioner submits that petitioner was appointed in accordance with law but without giving any notice the service of the petitioner has been terminated and the order, as contained in Annexure-2, is issued in contravention of principles of natural justice.

It appears that petitioner was appointed purely on contract basis to execute a scheme as Panchayat Rojgar Sevak. Admittedly, the petitioner remained continuously absent for more than one week without giving any information to the competent authority. Clause 11 of the agreement of appointment of petitioner, annexed as Annexure-A to the counter affidavit, shows that if the petitioner remains continuously absent for more than one week without permission of the competent authority his service can be terminated without



giving any notice. The learned counsel for the petitioner submits that this Clause is violative of principles of natural justice but I find no force in the submission of learned counsel for the petitioner as the appointment of the petitioner is purely temporary on contract basis and the petitioner accepted the terms and conditions of the contract of appointment. Admittedly, a criminal case for misappropriation and defalcation being Bachhwara P.S. case No. 5 of 2012 was registered against the petitioner with regard to execution of scheme No. 1-10/11 for plantation and after institution of the case the petitioner remained absent for long period without information to the authority and the authority on the ground of long absence of the petitioner without proper information rescinded the contract.

Having considered the facts aforesaid, I do not find any illegality in the impugned order. Accordingly, this writ petition is dismissed as devoid of any merit.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	16.08.2017
Transmission Date	N.A.

