

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1638 of 2016

In
Civil Writ Jurisdiction Case No.981 of 2016

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Sadhna Kumari wife of Raj Nandan Singh, resident of Mohalla- Lakhibagh
Manpur, Police Station- Muffassil, District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The District Magistrate, Jehanabad.
3. The District Programme Officer (Establishment), District- Jehanabad.
4. The Child Development Project Officer, Hulasganj, District- Jehanabad
5. The Block Development Officer, Hulasganj, District- Jehanabad.
6. The Block Education Extension Officer, Hulasganj, District- Jehanabad.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. P.K.Shahi, Sr. Advocate
For the Respondent/s : Mr. Sushil Kumar Singh, AC to AAG-10

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

8 08-01-2018 After orders were passed by this Court on 17.07.2017, a counter affidavit has been filed by Respondent Nos. 5 and 6 and in the said counter affidavit in para-7 the respondents have admitted that the appellant has worked till 31.8.2017. That being so, the appellant will be entitled to salary up to 31.8.2017. Thereafter in para-10 the respondents have pointed out that the service of the appellant was terminated on 4.9.2017 with retrospective effect.

A termination can only take with prospective effect and there cannot be retrospective termination. The termination is



therefore, deemed to have effected on 4.9.2017 and till then even the appellant was terminated from service without a valid termination order, the appellant was entitled for salary up to 31.8.2017 and further till 4.9.2017.

Accordingly, in view of the facts and circumstances of the case as is now made out from the counter affidavit, we allow this appeal in part and direct the respondents to pay salary to the appellant till the date of termination i.e. 4.9.2017 and thereafter liberty shall be available to the appellant to challenge the termination order in accordance with law.

With the aforesaid, the appeal stands allowed and disposed of to the extent indicated above.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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