

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 15425 of 2014

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Sabita Kumari wife of Ramchandra Das, resident of village Khaira Firoj, P.S. Kasma, Block Rafiganj, in the district of Aurangabad, Bihar

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna
2. The Director (ICDS) of Social Welfare Department, Govt. of Bihar, Patna
3. The Deputy Director Welfare, Magadh Pramandal, Gaya
4. The Assistant Director, (ICDS) of Social Welfare Department, Govt. of Bihar, Patna
5. The District Magistrate, Aurangabad
6. The District Programme Officer, Aurangabad
7. The Child Development Project Officer, Rafiganj Block, Aurangabad, Bihar

.... Respondent/s

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For the Petitioner/s : Mr Akhileshwar Prasad, Sr Advocate with
M/s Binod Kr & Prabhu Nr Sharma, Advs

For the S t a t e : Mr Mithilesh Kumar Upadhyay, AC to GP III

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 26-06-2018

Heard learned Senior Counsel for the petitioner as well
as learned AC to GP III.

It is submitted by the learned Senior Counsel that though the petitioner was ill between 08.02.2012 to 18.02.2012, she was proceeded against for her absence during course of inspection of the Angan Bari Centre on 09.02.2012, where she was an Angan Bari Sevika. Learned Senior Counsel for the petitioner has, referring to the order of the Appellate Authority dated 09.12.2013 in Angan Bari Appeal No 97Abad of 2013, submitted that the specific case of the petitioner was that she had absented herself after obtaining leave from



the superior authority and, as such, cancellation of the petitioner's selection as Angan Bari Sevika on grounds of her absence is unsustainable and illegal.

On going through the order passed by the Appellate Authority, it is clear that in spite of opportunity to the petitioner, she has not produced any document to show that she had taken permission of the superior authority. On a query made by this Court, learned Senior Counsel for the petitioner is also not in a position to show that any such document is in existence to sustain the petitioner's plea of absenting herself after obtaining leave from the superior authority. In absence of any such proof, mere self serving assertion of the petitioner that she was on leave from 08.02.2012 to 18.02.2012 is wholly unreliable.

Learned Senior Counsel for the petitioner has relied on the judgment and order dated 20.09.2016 passed by this Court in the case of *Sabita Kumari –Versus- State of Bihar & Others (CWJC No 308 of 2015)*.

This Court would observe that the same cannot be applied to the instant petitioner inasmuch as this Court, in the case of *Sabita Kumari (supra)* has quashed the severe punishment of cancellation of the petitioner's appointment on ground of mere absence of one day, since the same was held grossly disproportionate



and shocking to the conscience of the Court. As noticed above, it is the petitioner's own assertion that she had absented herself for 10 days that is from 08.02.2012 to 18.02.2012. Thus, it is not a case of absence for one day. In respect of her period of absence, there is no document to show that she had gone on leave after permission of the superior authority. The irresistible conclusion is that the petitioner was unauthorizedly absent for 10 days. Apart from that, the order impugned has recorded that various complaints have been made by villagers against the petitioner in the manner she was carrying out the affairs of the Angan Bari Centre in question.

That being the position, no case for interference with the impugned order is made out. The writ petition is devoid of any merit and is dismissed.

Learned Senior Counsel for the petitioner submits that if any vacancy arises in the future, the petitioner may be permitted to apply for her selection.

Since the instant termination is based on the facts of the case, petitioner would be at liberty to apply in the future vacancy.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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