

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18052 of 2013

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Usha Devi Wife Of Ravindra Yadav Resident Of Village - Parsauni, P.S. : -
Nautan, District : - West Champaran

... .. Petitioner

Versus

1. The State Of Bihar Through The Principal Secretary, Social Welfare Department, Govt. Of Bihar, Patna
2. The Commissioner, Tirhut Division, Muzaffarpur
3. The Director, I.C.D.S. Directorate, Social Welfare Department, Govt. Of Bihar, Patna
4. The District Magistrate, West Champaran, Bettiah
5. The District Program Officer, West Champaran, Bettiah
6. The Child Development Project Officer, Nautan, West Champaran

... .. Respondents

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Appearance :

For the Petitioner : Mr. Pranav Kumar, Adv.
For the Respondents : Mr. Jaishankar Barnwal, Adv.

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 16-04-2018

This writ petition under Article 226 of the Constitution of India has been filed for setting aside the order dated 07.10.2009 passed by District Magistrate, Bettiah, West Champaran, by which services of petitioner as Aanganwari Sevika have been cancelled as well as order dated 18.03.2013 passed in Service Appeal no.226 of 2009 by which appeal of this petitioner has been dismissed by the Commissioner, Tirhut Division, Muzaffarpur.

Briefly stated the case of the petitioner is that she was appointed as Aanganwari Sahayika in the year 2005 at Center no.12 under Child Development Project Officer (hereinafter referred to as 'the CDPO'), Nautan, Gram Panchayat Raj, Dabaria,



Block- Nautan, District-West Champaran, following the selection process and she was discharging her duty to the satisfaction of her superiors.

The letter dated 08.10.2009 of the District Programme Officer, West Champaran, Bettiah was sent to the CDPO, Nautan about removal order passed by the District Magistrate, West Champaran, vide order dated 07.10.2009 against Rekha Kumari, Aanganwari Sevika and petitioner Aanganwari Sahayika for their absence on 14.08.2009 at the Centre.

Petitioner preferred an appeal being Service Appeal case no.266 of 2009 before the learned Commissioner, Tirhut Division, Muzaffarpur, stating therein that on the date of inspection i.e. on 14.08.2009 she was ill from 13.08.2009 and for which she had already sent her leave application from 13.08.2009 to 14.08.2009 to the local Mukhiya and an information was also given to Aanganwari Sevika.

During hearing of the appeal, petitioner also replied to the letter no.799 dated 08.10.2009 of ICDS Office, Bettiah, addressing to the learned Commissioner that she tried to submit her leave application with medical report to the CDPO but same was not accepted. Petitioner has further submitted that for the same charge Aanganwari Sevika, namely, Rekha Kumari, who was



also removed but has been reinstated in Service Appeal Case No. 216 of 2009 vide order passed on 08.02.2010 and vide order dated 01.02.2011 the office of the Commissioner had called for report from the District Magistrate, West Champaran, informing him about the next date of hearing i.e. 21.02.2011 and during pendency of appeal the respondents decided to publish advertisement for the post of Sahayika at Centre no.120 i.e. petitioner's post. However, the Service Appeal of petitioner was dismissed by the Appellate Authority vide order dated 18.3.2013.

It has been submitted that only on the basis of direction of District Magistrate petitioner has been dismissed from service without any show cause or any proceeding. It has been submitted that for similar charges Aanganwari Sevika's appeal has been allowed whereas for the same charges by which petitioner has been removed from service but her appeal has been dismissed.

After hearing counsels for the parties and perusing the materials available on record, it is apparent that for similar allegation i.e. for remaining absent on 14.08.2009, both Aanganwari Sevika and Aanganwari Sahayika were removed from their posts on the direction of District Magistrate. West Champaran. However, on appeal preferred by Aanganwari Sevika, order of removal was set aside by the Commissioner. However,



for the similar charge, the appeal preferred by petitioner has been dismissed, which is discriminatory.

Parity has to be kept in the matter of punishment also and for similar charge if Aanganwari Sevika has been reinstated, petitioner (Aanganwari Sahayika) is also entitled for reinstatement. Even otherwise also this Court in several orders has held that for default or absence of one day, the order of removal is too harsh and accordingly, the orders of the Commissioner as well as the District Magistrate are set aside and petitioner is directed to be reinstated in service within three months from date of production/receipt of copy of this Court, however, without any back wages.

The writ petition stands allowed.

(S. Kumar, J)

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Uploading Date	
Transmission Date	

