

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21614 of 2013

Chanchal Devi Wife Of Raj Kumar Resident Of Mohalla- New Bigrapur
Biaripath, P.O. G.P.O., Patna, P.S. Jakkanpur District- Patna, Anganwari
Sevika, Bigrapur Centre Code 181 Under C.D.P.O. Phulwarisharif, Patna
... .. Petitioner/s

Versus

1. The State Of Bihar Through The Secretary, Social Welfare Department,
Government Of Bihar, Patna
2. The Director, Social Welfare Department, Government Of Bihar, Patna
3. The District Magistrate-Cum-Collector, Patna
4. The District Programme Officer, Patna
5. The Child Development Project Officer, Phulwarisharif, Patna
6. Smt. Bibha Sinha, The Lady Supervisor, Patna, Sadar- 5 Cum-Enquiry
Officer, I.C.D.S. (Intergrated Child Development Scheme) Patna
... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shambhu Sharan Singh
For the Respondent/s : Mr. MANOJ KR. AMBASTHA

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 14-03-2018

This writ petition under Article 226 of the Constitution of India has been filed for quashing the order dated 10.5.2013 passed by the District Magistrate, Patna, in Case No. 158 of 2012 dismissing the appeal of petitioner as well as the order dated 28.6.2012 passed by the District Programme Officer, Patna, in Case No. 170 of 2012 by which the services of petitioner has been terminated.

Petitioner was appointed on the post of Anganwari Sevika at Anganwari Centre No. 181 situated at Bigrapur, Phulwarisharif, Patna. Petitioner was issued a show cause dated 20.5.2012 (Annexure-1) by the District Programme Officer, Patna, in which she was asked to submit her explanation with respect to inspection of her Anganwari Centre No. 181 by the Anganwari Supervisor in which her Centre was accredited 'E' Grade and petitioner was found absent from the Centre on the date of inspection on



3.9.2011. Petitioner submitted her reply dated 8.6.2012 (Annexure-2) in which she had stated that she was engaged on 3.9.2011 in the Polio Eradication Scheme in which she had to perform duty as Vaccinator and as such she was absent on the Centre on the said date. The District Programme Officer by his order dated 28.6.2012 has stated that on 3.9.2011 during surprise inspection made by Bibha Sinha, lady Supervisor, many irregularities were found in the Centre and even Anganwari Sevika (petitioner) was found absent. For the said irregularities found in the Centre Anganwari Sevika(petitioner) and Anganwari Sahayika were show caused vide Memo No. 1133 dated 21.6.2012 and they jointly appeared and presented their defence and stated that allegations were not true. From the order passed by District Programme Officer dated 28.6.2012 it is apparent that same is error on record as in response to the show cause, as contained in Annexure-1, she submitted her reply, as contained in Annexure-2, in which she has taken a specific stand that on the said date she was engaged in Polio Eradication Scheme and performed the duty as Polio Vaccinator and in support of her contention she had produced a certificate issued by the Medical Officer Incharge, State Dispensary, Kankarbagh, Patna, in which it has been certified that petitioner was engaged in Polio Eradication Scheme on 3.9.2011. As such, the contention in the order that petitioner stated that she had gone to call the children and bring Poshahar and THR is contrary to the evidence on record and as such cannot be accepted. Against the order passed by the District Programme Officer vide Memo no.225 dated 28.6.2012, an appeal was preferred before the District Magistrate, Patna, the Appellate Authority, who in his appellate order has held that on 3.9.2011



inspection of Anganwari Centre No.181, where petitioner was posted, was made by Bibha Sinha, a lady Supervisor and petitioner was found absent at the time of inspection and the Centre was given 'E' Grade. It has further been stated in the appellate order that on 15.5.2012, as per the report of Child Development Programme Officer, petitioner was absent from the Centre. It has further been stated in the order dated 10.5.2013 that the counsel for the appellant was heard and District Programme Officer and Child Development Programme Officer and appellant were present. It was submitted by learned counsel for the appellant that on 3.9.2011 appellant was engaged in Polio Eradication Scheme. The order further says that on 15.5.2012 the Child Development Programme Officer has stated that she visited the Centre and found petitioner absent and Sahayika was present with some children. Appellant was absent without any information on 15.5.2012. Petitioner was show caused by the District Programme Officer on 20.5.2012 for her absence on the date of inspection i.e., 3.9.2011 only and she was not show caused for absence on 15.5.2012, as such, she could not have been terminated from service for her absence on 15.5.2012 for which she was neither show caused nor proceeded and she had given a valid explanation for her absence on 3.9.2011 as she was engaged in Polio Eradication Scheme and performed her duty as Polio Vaccinator which has been certified by the Medical Officer Incharge of the said Team at Kankarbagh, Patna, as such she had given explanation and reason for being absent on 3.9.2011, the date on which surprise inspection of her Centre was made. The District Programme Officer as well as District Magistrate have taken into account extraneous materials which were not part of the proceeding against petitioner and orders



based on such materials for which petitioner was not charged or show caused is not sustainable.

The order passed by the District Programme Officer dated 28.6.2012 as well as the order dated 10.5.2013 passed by the District Collector, Patna, the Appellate Authority, are set aside and petitioner is directed to be reinstated forthwith, however, without any back wages.

This order will not preclude the Respondent-authorities from taking any action for any other irregularities or omission or violation of any terms of engagement against the petitioner after giving her an opportunity of hearing, in accordance with law, and as per guidelines issued by the ICDS.

The writ petition is allowed.

(S. Kumar, J)

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CAV DATE	
Uploading Date	
Transmission Date	

