

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16354 of 2013

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KUMARI PUNAM BALI W/O SRI SANJAY KUMAR DAS RESIDENT OF
VILLAGE- YARI, P.S AND DISTRICT- AURANGABAD (BIHAR)

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Social Welfare, Government Of Bihar, Patna.
2. The Director, I.C.D.S., Bihar, Patna.
3. The District Magistrate, Aurangabad.
4. The District Programme Officer, Aurangabad.
5. The Child Development Project Officer, Aurangabad.
6. Smt.Pinki Kumari, w/o Anuj Kumar, r/o vill-yari, P.O. Aurangabad, District Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anirudh Kumar Verma
For the Respondent/s : Mr. Vinay Kriti Singh

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 17-04-2018

Heard learned counsel for the parties

2. This writ petition under Article 226 of the Constitution of India has been filed for setting aside the order dated 31.12.2012 passed by the Divisional Commissioner, Magadh Division, Gaya in Anganwari Appeal No. 74 of 2010 as well as order dated 16.02.2010 passed by the District Magistrate, Aurangabad in Appeal No. 34 of 2009 and order dated 23.05.2009 passed by the District Programme Officer, Aurangabad in Case No. 10 of 2009.

3. Briefly stated, the case of the petitioner is that she was duly appointed on 28.10.2002 as Anganwari Sewika in village-Yari, Gram Panchayat-Pora in the district of Aurangabad



and since she has been performing her duty to the satisfaction of all.

4. Petitioner was terminated vide order dated 25.05.2009 passed by the District Programme Officer, Aurangabad on allegation that petitioner was not present at Anganwari centre and she was not distributing take home ration.

5. Petitioner preferred appeal being Appeal No. 34 of 2009 before the District Magistrate, Aurangabad against the order of termination and same was dismissed by the District Magistrate, by his order dated 16.02.2010. Petitioner preferred revision being Revision No. 74 of 2010 and the revisional Authority dismissed the revision petition on 03.11.2011.

6. Petitioner was terminated on the allegation that she was absent on 22.05.2009 but on the same day she had to attend a meeting in the office of C.D.P.O. and was present in the office of C.D.P.O. It has been further submitted that withdrawal of amount of take home ration was made on 21.05.2009, which is evident from the letter of the Co-operative Bank, Aurangabad (Annexure-7). Petitioner was not given any show cause prior to her removal from the post which is in flagrant violation of natural justice and it is the District Magistrate under the guidelines of 2010, who can remove the petitioner but the order



of termination was passed by the District Programme Officer.

7. Petitioner had earlier filed C.W.J.C No. 4536 of 2012 and by order dated 30.03.2012, order of termination was set aside and matter was remanded to the Commissioner to pass a fresh order and petitioner filed a revision before the Commissioner being Revision No. 74 of 2010 and by order dated 31.12.2012, same was dismissed.

8. A counter affidavit has been filed on behalf of respondent nos. 1 , 2 and 3, in which it has been stated that inspection of Anganwari Sewika was made on 22.05.2009 at 9:45 am jointly by the D.C.L.R, Block Supply Officer and J.S.S, Aurangabad and a joint inspection report was submitted that the Centre was closed and petitioner was found absent whereas Sahaika Smt. Shakuntala Devi was present at the Centre on 22.05.2009 which was fourth Friday and take home ration was not being distributed among the beneficiaries and on the basis of said inspection report the District Programme Officer, Aurangabad terminated the services of petitioner by order dated 23.05.2009. The appeal and revision filed by petitioner was dismissed by the District Magistrate, Aurangabad and Divisional Commissioner at Gaya and on remand of the case by the High Court, the Divisional Commissioner, Magadh Division, Gaya,



heard the matter afresh and same was dismissed by the order as impugned.

9. The petitioner has been removed from the post of Anganwari Sewika on the ground that the inspection of the centre was being made by the District Level Team, the Centre was found to be closed and Anganwari Sevika was absent although Anganwari Sahaika was present. When the Anganwari Sahaika was present, it cannot be said that the Anganwari Centre was closed. It is an admitted fact that on 22.05.2009, i.e. the date of inspection a meeting was called by the C.D.P.O with respect to polio immunization scheme and petitioner was present in the said meeting. The authorities have held that meeting was scheduled from 2:00 pm whereas Anganwari Centre remains open from 9:00 am to 1:00 pm, as such petitioner would have remained present at the Centre. However, the authorities did not took into consideration the travel time and distance to be travelled by the petitioner to reach at the meeting in the office of C.D.P.O even otherwise the Anganwari Sahaika was present at the Anganwari Centre and even as per guidelines issued by the ICDS in case Sewika could not remain present at the Anganwari Centre, Anganwari Sahayika should remain present and both should not remain absent. Petitioner



had given proper explanation for her absence on 22.05.2009 which ought to have been accepted by the authorities. Regarding distribution of take home ration, it has been stated that amount was withdrawn on 21.05.2009, as such same could not have been distributed on 22.05.2009, which is a valid and justifiable reason. However, authorities have not considered the explanation given by the petitioner for her absence on 22.05.2009 and non distribution of take home ration on the said date. Petitioner has filed a supplementary affidavit in which she has enclosed order dated 25.10.2013 passed in C.W.J.C No. 12494 of 2011 by which this Court had set aside the order passed by the authorities where allegations were of similar nature.

10. In view of the fact that the case of the petitioner is squarely covered by the order dated 25.10.2013 passed in C.W.J.C No. 12494 of 2011, the order dated 31.12.2012 passed by the Divisional Commissioner, Magadh Division, Gaya in Anganwari Appeal No. 74 of 2010 as well as order dated 16.02.2010 passed by the District Magistrate, Aurangabad in Appeal No. 34 of 2009 and order dated 23.05.2009 passed by the District Programme Officer, Aurangabad in Case No. 10 of 2009, are set aside and petitioner is directed to be reinstated



within three months from the date of receipt/production of a copy of this order. However, without any back wages.

The appeal stands allowed, however, without any costs.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	02.05.2018
Transmission Date	N.A.

