

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11764 of 2011

=====

Vandana Ojha D/O Shri Krishana Kant Ojha R/O Sashi Niwas, Station Road , P.S.
Ara, Distt.- Bhojpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The Deputy Secretary, Social Welfare Department, Government of Bihar, Patna.
4. Director, Integrated Child Development Scheme Government of Bihar Patna.
5. The Divisional Commissioner, Munger Division, Munger.
6. The Collector, Munger.

.... Respondent/s

=====

Appearance:

For the Petitioner/s : Mr. Rakesh Kumar, Advocate.

For the Respondent/s : Mr. Alok Kumar Rahi, AC to GP 21.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 19-03-2018

Heard learned counsel for the petitioner and learned
counsel representing the State.

2. Petitioner is aggrieved by the order, as contained in the
notification vide Memo No. 350 dated 24.01.2011 (Annexure-9 to the
Writ Application), by which the petitioner has been discharged from
service as a probationer Child Development Project Officer (CDPO).

3. A perusal of the impugned order, as contained in
Annexure-9, would show that the petitioner was appointed
temporarily for a period of two years as probationer on the post of
CDPO vide notification no. 794 dated 07.03.2008. She did not join



her post for more than two months from the date by which she was required to join. She submitted her joining on 29.05.2008 and was sent for training; in course of her training itself she left her office after submitting an application for extra-ordinary leave on 04.08.2008. She continued with her unauthorized absence for a period of more than two years. On 20.09.2010, she submitted her joining in the Social Welfare Department (Headquarters) but because she had been absenting without any sanctioned leave, instead of accepting her joining, she was served with a letter to show cause as to why her service should not be terminated. The petitioner submitted her show cause. However, in her show cause, she did not deny the fact that she had gone on leave without getting the leave sanctioned from the competent authority. She simply stated that after submitting an application for extra-ordinary leave from 04.08.2008 to 31.11.2008, she was regularly submitting her application for extension of leave.

4. From Annexure-9 it appears that her reply to the show cause was rejected and it was found that the petitioner was absenting without any sanctioned leave, therefore, her conduct was not in consonance with the required parameters to be followed by a probationer / trainee. In these circumstances, her service has been terminated with immediate effect.

5. Learned counsel for the petitioner while assailing the



order, as contained in Annexure-9, would submit that the petitioner had gone for higher studies and, while on trainee, she had submitted an application on 04.08.2008 for extra-ordinary leave. Learned counsel further submits that the application submitted by the petitioner was never rejected by the competent authority and, therefore, in all fairness, when she had submitted her joining, on return from higher studies after a period of two years, her joining should have been accepted.

6. On the other hand, learned counsel representing the State submits that the petitioner was a probationer and during her two years' period of probation, while she was sent for training, she left the training programme simply by submitting an application dated 04.08.2008 seeking extra-ordinary leave. The petitioner had earlier failed to join within the prescribed period and her continuous absence for more than two years clearly demonstrates that she was not interested in the job and had not followed the required parameters which are prescribed for a trainee. Learned counsel submits that the petitioner had no vested right or lien on the post as she was still a probationer and her removal after giving an opportunity to show cause cannot be said to be illegal, arbitrary or bad in law.

7. Having heard learned counsel for the parties and upon perusal of the records, particularly the pleading of the petitioner in the



Writ Application, this Court finds that there is no denial of the fact stated in Annexure-9 that the petitioner had initially delayed her joining for more than two months from the prescribed date and immediately after joining on 29.05.2008, when she was sent for training she left the training programme by simply submitting an application on 04.08.2008 seeking extra-ordinary leave.

8. Contention of the learned counsel for the petitioner that her application was never rejected cannot be said to be a ground to interfere with Annexure-9 inasmuch as the petitioner being a probationer and having been sent on training could not have left the programme simply by submitting the application dated 04.08.2008 for extra-ordinary leave. Her continuous absence for more than two years, clearly shows that the petitioner was not interested in the job despite being fully aware of the consequence of absenting without sanctioned leave. She did not care for the same and left the programme, continued on unauthorized absence for over two years and then she wanted to allow her to join which the respondents denied.

9. I am inclined to agree with the submission of the learned counsel for the State that the petitioner had no vested right or lien on the post and she being a probationer, in the given circumstances, if she has been discharged from service after giving an opportunity to show cause and consideration thereof, the impugned



order is not fit to be interfered with. This Court does not find any reason to perceive a flaw in the impugned order.

10. The Writ Petition has no merit. It is accordingly dismissed.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.03.2018
Transmission Date	N/A

