

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10872 of 2017

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1. Amita Kumari, Wife of Diwakar Sharma, resident of Village- Belar,
P.S. + Block- Kashichak, District- Nawadah.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Govt. of Bihar, Patna.
2. The Director, I.C.D.S., Department of Social Welfare Government of Bihar, Patna.
3. The District Magistrate, Nawadah.
4. The District Programme Officer, Nawadah.
5. The Circle Officer, Kashichak, District- Nawadah.
6. The Child Development Project Officer (C.D.P.O.), Kashichak, District- Nawadah.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arun Kumar

For the Respondent/s : Mr. G.P. Ojha- Ga7

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 07-02-2018 The challenge of the petitioner is to the dismissal order dated 05.08.2016 passed by the District Programme Officer, Nawada whereby and whereunder, the petitioner has been dismissed from service on account of one day absence from service. The petitioner has also assailed the appellate order dated 13.06.2017 whereby and whereunder, the District Magistrate, Nawada has dismissed the appeal though he has mentioned that according to the departmental orders of the Social Welfare Department contained in letter dated 20.01.2017, it has been provided that in case, the *Anganwadi Sevika*/ Assistant is absent



for one day for any reason then the delinquent should be given a warning *to be careful in future*.

The short facts of the case are that the petitioner herein was absent at 11.50 hrs. on 23.07.2016 and it was found that in her place, her husband was sitting and also the mid-day meal had not been prepared. On the basis of the said allegation, a show-cause notice was issued to the petitioner herein which was replied to by the petitioner in which she has stated that she got ill suddenly and that is why, she had left the Centre however, her husband was sitting there to take care of the needs of the Centre. The District Programme Officer, Nawada did not consider the show-cause reply submitted by the petitioner and passed the order of dismissal dated 05.08.2016 and the appeal was also dismissed by an order dated 13.06.2017.

The learned counsel for the petitioner submits that the punishment of dismissal inflicted upon the petitioner is not commensurate to the gravity of charges and the allegations leveled against the petitioner.

In his support, the learned counsel for the petitioner has referred to a judgment reported in **2017(2) PLJR 405 (Ranju Kumari vs. The State of Bihar and ors.)** and has submitted that in a similarly situated case of one day absence, the



dismissal order was set aside by this Court relying upon a judgment reported in **2011(3) PLJR 140 (Punam Kumari vs. The State of Bihar)** on the ground that in absence of accompanying circumstances reflecting continued breach by the petitioner in running the centre, a mere single day absence is not sufficient enough for imposition of extreme penalty of dismissal.

Per contra, the learned counsel for the respondents has submitted that apart from the period of one day absence, it has also been found that the mid-day meal had also not been prepared hence, the charges leveled against the petitioner herein were grave.

Having considered the rival submissions of the parties, I am of the view that the punishment of dismissal for one day absence is highly unpragmatic and extremely harsh.

In such view of the matter, I deem it fit and appropriate to set aside the order of dismissal dated 05.08.2016 and consequently, the appellate order dated 13.06.2017 is also quashed.

The writ petition is allowed.

(Mohit Kumar Shah, J)

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