

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14089 of 2017

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Meena Devi Wife of Shankar Lal Choudhary, Resident of Village-Kapasiya,
P.S. Aurangabad, District-Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department,
2. The Deputy Director-Welfare, Magadh Division Gaya.
3. The District Magistrate, Aurangabad.
4. The District Programme Officer, Aurangabad.
5. The Child Development project Officer, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Leelawati Kumari
For the Respondent/s : Mr. Smt. Kumari Amrita - Gp3

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 08-05-2018

The petitioner by way of the present writ petition has prayed for quashing the order dated 08.02.2016 contained in Memo No. 254 passed by the District Programme Officer, Aurangabad in Case No. 36 of 2015 by which the petitioner has been terminated from the post of Aaganbadi Sevika as also to quash the order dated 13.07.2017 passed by the District Magistrate, Aurangabad in Appeal Case No. 06 of 2016 by which the appeal of the petitioner has been rejected.

2. The brief facts of the case are that the petitioner herein was appointed as Aaganwari Sevika at Centre Kapasiya, Code No. 79, Panchayat Nawagarh, District-Aurangabad. While the petitioner was working to the satisfaction of all concerned, on



30.10.2015, the Mahila Supervisor is said to have made an inspection of the said Aanganwari Centre and the Centre was found to be closed, hence, a show cause notice dated 14.11.2015 was issued to the petitioner to which the petitioner had replied stating that on the date of inspection, she had suddenly fallen ill and she had been taken to the Sadar Hospital, Aurangabad, hence, she had handed over the charge to the Aanganwari Sahaika. In fact, the petitioner had also informed in writing to the C.D.P.O., Aurangabad on 31.10.2015 itself regarding her illness, however, the District Programme Officer without considering the reply of the petitioner has passed the impugned order of termination dated 08.02.2016 and the appeal of the petitioner against the said order dated 08.02.2016 has also been dismissed by an order dated 13.07.2017.

3. The learned counsel for the petitioner has submitted that the petitioner was absent for one day on account of genuine reason, hence, the punishment of termination of her services is harsh and not commensurate to the allegation of one day absence of the petitioner from her services.

4. Per contra, the learned counsel for the Respondents has submitted that the petitioner herein is a habitual offender and in fact, her services was also terminated earlier by an order dated



17.10.2013 passed in Case No. 52 of 2013, but she was reinstated back in her service on account of an order dated 26.09.2014 passed in Aaganwari Appeal No. 103 'K' of 2014, hence, the order of termination does not require any interference.

5. I have heard the learned counsel for the parties and perused the materials on record and I find from the impugned orders dated 08.02.2016 and 13.07.2017 that there is a total non-consideration of the ground set forth by the petitioner in her reply regarding one day absence from the centre i.e. on account of her illness for which she had produced proof. I further find that the punishment of termination from services, inflicted upon the petitioner herein is quite harsh and disproportionate to the allegation levelled against her.

6. This aspect of the matter has been considered by this Court in a judgment reported in **2011(3) PLJR 140** wherein this Court has held that the order terminating the services of the petitioner for one day absence is not only harsh and excessive but also arbitrary per se and violative of Article 14 of the Constitution of India, hence, the order of punishment was quashed.

7. This aspect of the matter has also been considered by this



Hon'ble High Court in a judgment dated 17.03.2017, passed in C.W.J.C. No. 187 of 2017 wherein it has been held that the punishment of removal for a single day absence is extremely harsh.

8. For the reasons mentioned hereinabove as also in view of the fact that the punishment of termination of the services of the petitioner on the allegation of one day absence from service is not only harsh and excessive but also per se arbitrary and violative of Article 14 of the Constitution of India, the order dated 08.02.2016 passed by the District Programme Officer, Aurangabad as well as the order dated 13.07.2017 passed by the District Magistrate, Aurangabad are quashed and set aside.

9. The writ petition is allowed.

(Mohit Kumar Shah, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.05.2018
Transmission Date	

