

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.777 of 2018
In
Civil Writ Jurisdiction Case No. 16354 of 2013**

=====

Smt. Pinki Kumari, W/o Anuj Kumar, R/o Vill. Yari, P.O. Aurangabad, District – Aurangabad.

.... Appellant/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,
- Respondents / Respondents
6. Kumari Punal Bali, W/o Sri Sanjay Kumar Das, R/o Village Yari, P.S. and District Aurangabad

.... Respondent/Petitioner

=====

Appearance:

For the Appellant/s : Mr. Rajendra Pd Singh, Sr. Advocate with
Mr. Rajeev Kumar Singh, Advocate.

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 31-07-2018

Challenge in the present Letters Patent Appeal is to the judgment dated 17.04.2018 passed by the learned Writ Court in CWJC No. 16354 of 2013 by which the learned Writ Court has been pleased to set aside the impugned orders by which the petitioner was terminated from her engagement as Anganwadi Sevika and upon setting aside the impugned orders the learned Writ Court has directed for reinstatement of the petitioner within three months from the date



of receipt / production of a copy of the order, subject to, however, without any back wages.

2. The facts narrated in the impugned judgment are not in dispute. The engagement of the petitioner as Anganwadi Sevika was terminated on the allegation that she was absent on 22.05.2009 but what has transpired from the pleadings that on the same day the petitioner had to attend a meeting in the office of Child Development Project Officer (CDPO) and she was present in the office of the CDPO. The petitioner was not served with any show cause prior to her removal and the impugned order of removal was, therefore, set aside in the earlier round of proceeding in CWJC No. 4536 of 2012 vide order dated 30.03.2012. When the matter was remanded to the Commissioner to pass a fresh order and the petitioner filed a revision, the same was dismissed. The learned Single Judge has, therefore, gone into the pleadings and took a view consistent with the views taken by this Court in CWJC No. 12494 of 2011 in similar facts and circumstances.

3. Learned counsel representing the appellant submits that the learned Single Judge could not appreciate that by virtue of the Advertisement bearing no. 1 of 2013 inviting applications for Anganwadi Sevika / Sahayika in the district of Aurangabad, after due procedures of law, the present appellant has been appointed on the



post of Anganwadi Sevika. It is submitted that the learned Writ Court was not required to interfere with the appointment of the present appellant. It is submitted that the subsequent development was not brought to the notice of the learned Writ Court.

4. Having heard learned counsel for the appellant and upon perusal of the records we are of the considered opinion that the learned Writ Court has gone into the pleadings available on the records wherein it was found that on the date on which the inspection was conducted and the petitioner was not found present at the Anganwadi Centre, a meeting was called by the CDPO with respect to Polio Immunization Scheme and the petitioner was present in the said meeting. The learned Writ Court has taken a consistent view with the judgment of this Court in CWJC No. 12494 of 2011 and, therefore, in the nature of the facts and circumstances of the case, we do not find any reason to interfere with the impugned judgment.

5. It is not in dispute that during the ongoing proceeding and during the pendency of the Writ Application only a fresh Advertisement was issued and engagement of the appellant was made. The writ petitioner was regularly fighting with the order of termination and in such circumstances when the learned Writ Court has found the case in her favour, the present appellant cannot claim any right to continue on the post which was earlier held by the writ



petitioner.

6. We do not find any merit in the Letters Patent Appeal. It is dismissed accordingly.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	01.08.2018
Transmission Date	N/A

