

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1612 of 2017

IN

Civil Writ Jurisdiction Case No. 7410 of 2014

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Babita Pandey Wife of Santosh Kumar Upadhyay Resident of Village - Gosaipur,
P.S. Sahpur, District - Ara.

.... Appellant/s

Versus

1. The State of Bihar through the Secretary, Department of Welfare, Govt. of Bihar, Patna.
2. The Director, Integrated Child Development Scheme (ICDS), Department, Social Welfare, Government of Bihar, Patna.
3. The District Magistrate, Bhojpur at Ara.
4. The District Programme Officer, Bhojpur at Ara.
5. The Block Development Officer, Shahpur District Bhojpur at Ara.
6. The Child Development Project Officer, Shahpur, District - Bhojpur.
7. The Mukhiya, Gram Panchayat Raj, Simaria Ojhapatti within Block - Shahpur, District - Bhojpur at Ara.
8. The Panchayat Secretary, Gram Panchayat Raj, Simaria Ojhapatti within Block - Shahpur, District - Bhojpur at Ara.
9. Bindu Devi wife of Om Prakash Upadhyay Resident of Village - Gosainpur, P.S. - Shahpur, District - Bhojpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kamal Nayan Choubey, Sr. Adv.
Mr. Sarveshwar Tiwary, Adv.
For the State : Mr. Manish Kumar, AC to AAG-6
For the Resp. no. 9 : Mr. Sanjay Prakash Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 08-05-2018

Heard learned senior counsel for the appellant and counsel
for the respondents.

If the original Anganbari Sevika was removed due to
certain acts of omission and commission, since, she succeeded to
shake off that order before the competent authority, then obviously



she has to be restored back to her post and position she held before the intervening order or orders which came to be passed against her.

Since the appointment of the present appellant was against the vacancy caused because of the removal of the private respondent, therefore, she does not acquire a permanent right to continue on that post. It was always contingent to the final adjudication which would emerge in relation to the order of removal which was passed against the private respondent.

In these circumstances, if she came to be restored back to the post and position, the present appellant does not acquire any right over the said post due to her engagement on a permanent basis.

If the learned Single Judge has been indulgent enough to give window of opportunity to the appellant to appear before the District Programme Officer (ICDS), Bhojpur, she may try her luck.

Appeal is otherwise dismissed.

(Ajay Kumar Tripathi, J)

Devendra/Arjun

(Nilu Agrawal, J)

AFR/NAFR	NAFR
CAV DATE	NA
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