

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1154 of 2018

In
Civil Writ Jurisdiction Case No.19141 of 2016

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Phul Kumari, Daughter of Dayanand Kamat, Resident of Parmanandpur, P.S.-
Pratapganj, District- Supaul.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The Director, I.C.D.S., Social Welfare Department, Government of Bihar, Patna.
4. The D.M., Supaul.
5. The District Programme Officer, I.C.D.S., Supaul.
6. The Child Development Project Officer, Raghapur, (Supaul).
7. Chinta Devi, Wife of Paras Nath Kamat, Resident of Village- Parmanandpur, P.S. Pratapganj, District- Supaul.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Kumar Sinha, Advocate
For the Respondent/s : Mr. Gyan Prakash Ojha – G.A. 7

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-10-2018

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the learned Single Judge dated 24.07.2018, passed in C.W.J.C. No. 19141/2016, by which the learned Single Judge has allowed the said petition preferred by the original writ petitioner, and has quashed and set aside the order terminating the services of the original writ petitioner as



Anganwari Sevika for Centre No. 31, Village-Paramanandapur under Raghapur Block in the District of Supaul, the original Respondent No. 7 has preferred the present Letters Patent Appeal under Clause X of the Letters Patent.

2. Heard learned Counsel appearing on behalf of the respective parties at length and perused the impugned judgment and order passed by learned Single Judge.

3. Having heard learned Counsel appearing on behalf of the respective parties and on perusal of the impugned judgment and order passed by the learned Single Judge, it appears that as such appellant herein – original Respondent No. 7, was appointed as an Anganwari Sevika for Centre No. 31, Village-Paramanandapur under Raghapur Block in the District of Supaul, which post was occupied by the original writ petitioner.

4. It is not in dispute that after the service of the original writ petitioner was terminated from the post of Anganwari Sevika for Centre No. 31 and the same was under challenge, the original Respondent No. 7, appellant herein, was appointed. The order of termination of the original writ petitioner was under challenge before the learned Single Judge by way of C.W.J.C. No. 19141/2016.



5. By the impugned judgment and order, the learned Single Judge has allowed the writ petition preferred by the original writ petitioner and has quashed and set aside her termination as an Anganwari Sevika and, consequently, has also quashed and set aside appointment of the original Respondent No. 7, appellant herein.

6. Feeling aggrieved and dissatisfied by the judgment and order passed by the learned Single Judge, the original Respondent No. 7 has preferred the present Letters Patent Appeal.

7. Shri Rajesh Kumar Sinha, learned Counsel appearing on behalf of the appellant herein, original Respondent No. 7, has vehemently submitted that, in fact, the learned Single Judge has wrongly noted that the original writ petitioner remained absent for one day. It is submitted that, in fact, the original writ petitioner remained absent for three days. It is submitted that even the board was not displayed and, therefore, there was a breach of the guideline issued. It is submitted that, therefore, the original writ petitioner was rightly dismissed from her post of Anganwari Sevika. It is submitted that, therefore, the learned Single Judge materially and substantially erred in setting aside



the order of dismissal dismissing the original writ petitioner from her post of Anganwari Sevika.

7.1 It is submitted by learned Counsel appearing on behalf of the appellant that even otherwise the appellant, original Respondent No. 7, could not have been ordered to be relieved, as in her appointment order there was no condition that her appointment is subject to the ultimate outcome of the present writ petition filed by the original writ petitioner.

7.2 Making above submission, it is requested to allow the present appeal.

8. Heard learned Counsel appearing on behalf of the respective parties at length. At the outset it is required to be noted that the original writ petitioner was serving as an Anganwari Sevika for last two decades and she was dismissed from her post of Anganwari Sevika for remaining absent for one day. According to the appellant herein, she remained absent for three days.

9. Be that as it may, considering the fact that the original writ petitioner remained absent due to sickness/illness for which necessary certificate/document was submitted and having found that the order dismissing her from the post of Anganwari Sevika for remaining absent for one/three days to be



too harsh and as such there was a justification found for remaining absent, as such, the learned Single Judge rightly quashed and set aside the order dismissing her from the post of Anganwardi Sevika. Even for not displaying the board, such a harsh and extreme penalty of dismissal was not warranted in view of the fact that the original writ petitioner served as an Anganwari Sevika for more than two decades.

10. In view of the above, as such we see no reason to interfere with the impugned judgment and order passed by the learned Single Judge allowing the writ petition and quashing and setting aside the order dismissing the original writ petitioner from the post of Anganwari Sevika. At the outset, it is required to be noted that so far as the authority who passed the order of dismissal has not challenged the impugned judgment and order and it is the appellant, original Respondent No. 7, who was appointed in place of the original writ petitioner, has challenged the impugned judgment and order passed by the learned Single Judge.

11. Now, so far as the direction issued by the learned Single Judge against setting aside the appointment of original Respondent No. 7 is concerned, at the outset it is required to be noted that as such the same is a consequence of allowing the writ



petition and quashing and setting aside the order dismissing the original writ petitioner as an Anganwari Sevika. Once her dismissal order is being set aside, in that case, she has to be reinstated and when the appellant, original Respondent No. 7, was appointed in place of original writ petitioner, the necessary consequences shall follow.

12. In view of the above and for the reasons stated above, we see no reason to interfere with the impugned judgment and order passed by the learned Single Judge in C.W.J.C. No. 19141/2016.

13. Under the circumstances, present appeal deserves to be dismissed and is accordingly dismissed.

14. I.A. No. 6284/2018 stands disposed of.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

K.C.Jha/Uma/-

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