

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.231 of 2018

In

Civil Writ Jurisdiction Case No.10946 of 2014

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1. Khushbu Kumari, W/o Munna Kumar, resident of Village-Payshodha, P.O.- Ugava, P.S.- Asthava, District- Nalanda, at Bihar Sharif.
 2. Nutan Kumari, W/o Sambhu Choudhary, resident of Village-Payshodha, P.O.- Ugava, P.S.- Asthava, District- Nalanda, at Bihar Sharif.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Director, Welfare, Patna Division, Patna.
3. The Deputy Director, Welfare, Patna Division, Patna.
4. The D.M. Biharsharif, Nalanda.
5. The D.P.O., Biharsharif, Nalanda.
6. The C.D.P.O. cum Secretary of Ashthava, Biharsharif, District- Nalanda.
7. The Chairman cum Ward Member of Ashthava, Biharsharif, District Nalanda.
8. The C.M.O., Biharsharif, District- Nalanda.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Raj Kumar Singh, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-08-2018

Delay of 41 days in filing of the appeal is condoned and

I.A. No.2721 of 2018 is allowed and disposed of.

Even though the writ petition has been dismissed by the learned Writ Court by pointing out that the petitioners have not shown their connection with the impugned order dated 23.10.2013/02.11.2013 passed by the Deputy Director, Patna



Division, Patna in Anganbari Appeal No. 10 of 2012, on going through the record we find that in the centre in question after due selection, the respondents herein, namely Kumari Sunita (Sevika) and Asha Devi (Sahayika) were appointed. On an inspection conducted on 12.11.2011 they were found to be absent and, therefore, after show cause notice to them, their services were terminated. On account of the vacancy created due to termination of these two persons, the appellants herein were appointed after completing the process on 8.5.2013. In the meanwhile, both the terminated employees, namely Kumari Sunita (Sevika) and Asha Devi (Sahayika) filed statutory appeal before the statutory Appellate Authority and the Authority having allowed the appeal finding their termination to be illegal, the appellants are required to be removed to facilitate reinstatement of the terminated employees.

The grievance raised before the Writ Court was that once the termination of the employees Kumari Sunita (Sevika) and Asha Devi (Sahayika) has been held illegal by the statutory Appellate Authority, there stood no vacancy against which respondents Khushbu Kumari and Nutan Kumari @ Nutan Devi (appellants herein) could have been appointed.



From the above it follows that pursuant to the order of the Appellate Authority, the appointment of the appellants automatically goes and the respondents herein are required to be reinstated.

Accordingly, we find no ground for indulgence into the matter. The appeal stands dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

K.C.Jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07.08.2018
Transmission Date	N/A

