

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18458 of 2015

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Sinjan Kumari wife of shree Barun Yadav Resident of Village- Kokraha, P.O.
-Sanokhar, Police station- Alauli, district Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director, I.C.D.S., Government of Bihar, Patna.
3. The Dy. Director, I.C.D.S., Government of Bihar, Patna.
4. The Divisional Commissioner, Munger.
5. The District Magistrate, Khagaria.
6. The District Programme officer, Khagaria.
7. The Chid Development Project Officer, Alauli, District Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Adv.
For the Respondent/s : Mr. Shashi Shekhar Tiwary, AC to AAG-15

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 20-05-2019

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order dated 26.10.2013 passed by the Divisional Commissioner, Munger in Service Appeal No. 21/2013 affirming the order dated 20.3.2013 passed by the District Magistrate, Khagaria as well as the order dated 25.4.2012 passed by the District Programme Officer, Khagaria whereby and whereunder the petitioner has been terminated from service without showing any reason.

The petitioner was working as Anganwari Sevika at Center Code No. 152 Alauli, Dist. Khagaria, the pulse polio programme drive was started by the Central Government during



the period 19.2.2012 to 23.2.2012 and, during that period, the petitioner was required to join the drive but, she remained absent and, on that account, a proceeding was initiated against her. The petitioner filed her show-cause making her statement that during that period, she was mentally not fit and the doctor had advised her not to move in the sun shine. On that account, she remained absent. Against that, the petitioner filed appeal, that too has been rejected.

Learned counsel for the petitioner has submitted that the order of District Programme Officer, Khagaria does not disclose any reason for refusing to accept the plea of the petitioner that she was suffering from mental illness and also the Collector has not given his finding with regard to explanation submitted by her that she could not discharge the duty during the period, as aforesaid, on account of mental illness, only recorded that as no person suffering from mental disease would be appointed as Anganwari Sevika but, there is no finding with regard to explanation what she has given has been accepted or rejected but, in the third ground, the appeal has been rejected.

There is no finding on the point which has been taken in the explanation and, only on presumption, the claim of the petitioner has been rejected. When she has filed an application



then the District Programme Officer as well as the Collector should have considered the claim of the petitioner in an objective manner not in subjective manner without consideration of the claim made by her.

In that view of the matter, the order of the Collector as well as the District Programme Officer are set aside and the matter is remanded back but, the petitioner will be given hearing subject to the availability of the vacancy. If any person has already been appointed, this order will not be of any help to the petitioner and the District Programme Officer and the Collector will not be obliged to give a hearing to the petitioner.

The whole exercise must be concluded within a period of six months from the date of receipt/production of a copy of this order.

In the result, this writ application stands allowed.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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