

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14692 of 2013

Indu Kumari W/o Ashok Kumar, resident of village- Bhadaura, P.S- Haveli
Kharagpur, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Munger Division, Munger.
3. The Collector, Munger.
4. The District Programme Officer, Munger.
5. The Child Development Officer, Haveli Kharagpur, Munger.
6. Mamta Kumari W/o Pappu Yadav, Resident of Village- Raghunath Pur, P.S.
Kharagpur, District- Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s : M/s Pankaj Kr. Sinha, Kamal Kishore Jha and
Raunak Kr. Singh Pankaj

For the Respondent/s : M/s Gopal Jee, Kumar Chandra Shekhar, Shree Pal Jha,
and Kumar Kamal Nayan

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 02-04-2019

Heard learned counsel for the petitioner and the learned
counsel for the State.

2. In this case, the petitioner is challenging the order of
the Divisional Commissioner, Munger dated 29th May 2013 passed
in Service Appeal No. 53 of 2012 by which he has rejected the
appeal holding that on the date of inspection, the petitioner
Anwanwari Sevika was found absent unauthorisedly from
07.07.2011 to 16.07.2011,

3. The short fact of this case is, the present petitioner
was appointed as Anganwari Sevika in Centre No. 50, Raghunath
Panchayat Bahira. On 15.07.2011, the aforesaid Centre was



inspected by the State Level Committee and found certain irregularity, accordingly, the show cause was issued for asking the petitioner, why her engagement from Anganwari Centre be not withdrawn or cancelled whereupon she has submitted the show cause stating therein that she was on medical leave and after consideration of show cause of the petitioner, the District Programme Officer, Munger cancelled the petitioner's selection vide Memo no. 869 dated 24.10.2011 / 04.11.2011. The petitioner being dissatisfied with the said order, filed Vividh Wad No.27/2011-12 before the Collector, Munger which was dismissed vide order dated 29.08.2012 upholding the order dated 24.10.2011 and 04.11.2011. Against that, the petitioner filed a review application which was also dismissed.

4. The allegation against the petitioner is that she remained absent unauthorisedly along with Anganwari Sahayika from the period 07.07.2011 to 16.07.2011 and during that period the Anganwari Centre remain closed.

5. The counsel for the petitioner submits, the finding recorded by the Commissioner is completely perverse in view of the fact that the petitioner was not absent rather she was on medical leave and she had gone to the knowledge of all the authorities, as the Child Development Project Officer had granted her leave. In



support of case, the petitioner has placed reliance on Annexure 3 and 5 which bears initial and Annexure-5 also indicates noting that the Centre was found closed, but Sahayika remained absent without any information. The State has filed counter affidavit but there is specific denial of the fact mentioned in the prayer.

6. The learned counsel for the petitioner submits that the finding of the Commissioner is completely perverse and it is against the evidence on record. In fact, she has filed the leave application and after taking leave, she remained absent so her engagement cannot be cancelled, however they could have taken steps against the Sahayika.

7. In such view of the matter, the order of Commissioner dated 29.05.2013 is set aside and the matter is remanded back to the Commissioner, Munger who will examine all aspects of the matter including the claim of the petitioner that she was absent as she was granted leave by the Child Development Project Officer. Till the final decision of the Commissioner, Respondent no. 6 will not be disturbed but if the petitioner succeeds, in that circumstance, the added respondent cannot claim for her reinstatement to the place of posting. The petitioner and Respondent no. 6 are directed to appear before the Commissioner on 25th April 2019 and the Commissioner would decide the matter



within a period of two months from the date of receipt/production
of a copy of this order.

8. With the above direction, this application is allowed.

(Shivaji Pandey, J)

mkchy/-

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

