

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1555 of 2018

In
Civil Writ Jurisdiction Case No.13562 of 2017

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Sunita Kumari Wife of Sri Nandlal Sharma, resident of Village- Tullapur,
P.S.- Warsaliganj, District- Nawada.

... .. Appellant/s

Versus

1. The State Of Bihar, through Principal Secretary, Department of Social Welfare, Government of Bihar, Patna
2. The Director, I.C.D.S., Department of Social Welfare, Government of Bihar, Patna.
3. The Divisional Commissioner, Magadh Division, Gaya.
4. The District Magistrate, Nawadah.
5. The District Programme Officer Welfare, Nawadah.
6. The Child Development Project Officer C.D.P.O., Kawakole, District- Nawadah.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Vinay Mistry
For the Respondent/s : Mr.Gyan Prakash Ojha -Ga7

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA)

Date : 28-02-2020

Heard learned counsel appearing for appellant as well as learned counsel appearing for State on I.A. No. 8281 of 2018, which has been filed under Section 5 of the Limitation Act for condonation of delay of 29 days in filing this appeal as well as on the point of admission.



The delay in filing this appeal is condoned on the grounds mentioned in I.A. No. 8281 of 2018.

The petitioner – appellant was appointed as Aganwari Supervisor on 3.8.2011 on contract basis for the period of one year but before completion of one year period, she was terminated from service. She challenged her termination order before Commissioner, Magadh Division, Gaya, who set aside her termination order and remitted the matter to concerned Collector for a fresh consideration, thereafter, concerned Collector sent the matter to Additional Collector, who having inquired the matter gave clean cheat to the petitioner-appellant. The petitioner – appellant after getting clearance from Additional Collector approached the concerned Minister, who sent the matter to Collector and, thereafter, Collector again authorised Additional Collector to make proper inquiry in accordance with Rules. Thereafter, Additional Collector having made inquiry found the petitioner – appellant guilty and, accordingly, she was terminated from service.

The petitioner – appellant approached the writ court against her termination order by filing C.W.J.C. No. 13562/2017, which was dismissed by learned Single Judge *vide* order dated 25.8.2018 on two counts. First, the period of contract of the



petitioner had already elapsed and, secondly, the petitioner-appellant was not entitled to get benefit of Article 311 of the Constitution of India.

Learned counsel appearing for writ petitioner - appellant submits that, admittedly, the Additional Collector found the petitioner – appellant innocent and gave clean cheat to her but again when the matter was remitted, the Additional Collector held the petitioner – appellant guilty without giving any opportunity of hearing to her and, therefore, the aforesaid fact, clearly, goes to show that there was violation of natural justice. He, further, submits that the Hon'ble Apex Court has held in several decisions that the court can interfere into any matter, if there is violation of natural justice.

On the other hand, learned counsel appearing for State refuted the above stated submissions submitting that the learned Single Judge rightly noticed that the period of contract of petitioner – appellant had already been elapsed and on the aforesaid ground, the learned Single Judge dismissed the writ petition of the appellant.

Having heard the above stated contentions of the parties, we went through the record. We find substance in the contentions of learned counsel appearing appearing for State. Admittedly, the



petitioner – appellant was appointed on contract basis only for one year and before filing C.W.J.C. No. 13562/2017, her period of contract had already elapsed, therefore, in our view also the learned Single Judge rightly dismissed the writ petition of the petitioner – appellant.

On the basis of aforesaid discussions, we do not find any ground to interfere into the impugned judgment dated 25.8.2018 passed by learned Single Judge in C.W.J.C. No. 13562 of 2017 and, accordingly, this L.P.A. stands dismissed on admission stage itself.

However, it is made clear that this order as well as order of learned Single Judge shall not come in future prospect of the petitioner-appellant.

(Hemant Kumar Srivastava, J)

(Rajendra Kumar Mishra, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.03.2020
Transmission Date	NA

