

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.313 of 2019

In
Civil Writ Jurisdiction Case No.14089 of 2013

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Sangita Kumari, Wife of Satyendra Kumar, Resident of Village- Manjhauli,
Police Station- Belchi, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Commissioner-cum-Secretary, Welfare Department, Government of Bihar, Patna.
3. The Director, I.C.D.S., Indira Bhawan, near Pant Bhawan, Bihar, Patna.
4. District Program Officer, District Program Branch, I.C.D.S., Collectorate, Patna.
5. Child Development Project Officer, Barh, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Santosh Kumar Sinha 2, 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 S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 12-02-2021

Heard the parties.

Aggrieved by the judgment and order dated 25.07.2018
passed in CWJC No. 14089 of 2013, passed by learned Single
Judge of this Court, dismissing the writ petition, appellant has
preferred this letters patent appeal.

Briefly stated the facts of the case is that appellant was
appointed as Anganbari Sevika in Anganbari Centre No. 204 in
village Manjhauli, P.S. Belchi, District, Patna in the year 1998



and since then was continuing on said post.

An inspection was made by the State Level Committee. I.C.D.S. on 04.10.2012 which was headed by Assistant Director, I.C.D.S. who found that at the time of inspection on 04.5.2012, only three children were present in the Anganbari Centre and distribution of THR was found to be less in quantity at the centre and inspecting team submitted its report to the Director, I.C.D.S., recommending removal of appellant on the basis of irregularities found at the Anganbari Centre, who on the basis of said report of inspection team, by order dated 13.6.2012 to the District Programme Officer, Patna directed to remove appellant from the post of Anganbari Sevika as well as recover three months amount of THR from appellant after issuance of show cause with respect to irregularities found at the Anganbari Centre by the State Inspecting Team and in compliance thereof, show cause notice was issued to the appellant as contained in Annexure B and appellant submitted her reply to said show cause assigning reasons for presence of only three children at the centre due to intense heat and no fund for THR was provided for last three months, as such, same could not be distributed, however, without dealing or considering reply of appellant, the District Programme Officer



not only removed appellant from her post but also directed to deposit amount of three months THR to the appellant which was deposited by the appellant.

Aggrieved by the order dated 7.7.12 passed by the D.P.O., Patna, the appellant preferred appeal before the District Magistrate, Patna in which counsel for the appellant as well as C.D.P.O., Patna were present and specific statement was made by C.D.P.O., Patna which has been recorded by the District Magistrate, Patna in his order dated 4.4.2013 that in the Anganbari Centre THR was not provided for the said period, although appellant was removed from the service on allegation that less THR was distributed during said period as well as only three children were present at the time of inspection of the Anganbari Centre by the State Level Team.

The guidelines issued by I.C.D.S. (letter no. 2120 dated 20.06.2012) specifically states that at the time of inspection by the State Team of the Anganbari Centre, if children registered at the Anganbari Centre are less than 14 then Anganbari Sevika is liable to be removed. In present case at the time of inspection of Anganbari Centre only three children were found to be present at the Anganbari Centre, for which explanation given by the appellant was not found to be satisfactory either by the District



Programme Officer or the District Magistrate and, as such, she was removed from the post of Anganbari Sevika.

Engagement of Anganbari Sevika at Anganbari Centre is to provide nutritional diet and pre-school education to the children of marginalized and deprived section of society as well as to provide nutritional diet to pregnant women belonging to said section and if there is any fault or failure found on the part of Anganbari Sevika in implementation of the said scheme, she cannot be permitted to continue on the said post, as such, decision to remove her in terms of letter no. 2120 dated 20.06.2012 requires no interference. However, since the C.D.P.O., herself has admitted before the District Magistrate, Patna that during said period no fund for THR was provided to Anganbari Sevika, as such, direction to deposit amount of THR for said period i.e. Rs. 8715-00 which was deposited by the appellant on 07.09.2012 cannot be countenanced and is accordingly set aside.

Respondent No. 4 District Programme Officer, Patna is directed to refund the amount of Rs. 8715/- with simple interest @ 8% per annum in the account of appellant by electronic mode within three months from the date of receipt/production of a copy of order passed by this Court.



The L.P.A. is dismissed subject to modification in the order passed by learned Single Judge to the extent as indicated above.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
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