

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6285 of 2020

Shakuntla Devi Wife of Janeshwar Ram Resident of Village- Simari Dhamni,
P.S.- Nabinagar, District- Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. State of Bihar through the Principal Secretary, Social Welfare, Government of Bihar, Patna.
2. The Director, Integrated Child Development Services, Bihar, Patna.
3. The District Magistrate, Aurangabad.
4. The District Program Officer, Aurangabad.
5. The Child Development Project Officer, Nabinagar, Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Aman Vishal, Advocate
For the Respondent/s : Mr. Md. Raisul Haque (Sc10)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 14-12-2021

Heard the learned counsels for the parties.

2. In the instant petition, petitioner has prayed for

following reliefs:-

“i. to set aside Order dated 31.01.2020 passed by District Magistrate-cum-Collector, Aurangabad in Anganbadi Sewa Appeal Case No. 27/2016 sustaining Order dated 21.04.2016 passed by District Program Officer, Aurangabad in Anganbadi Sevika/Sahaika Selection/release Case No. 191/2016 where under and whereby the Petitioner was removed from post of Anganbadi Sevika, Anganbadi Centre Dhamni, Code No. 119, Project- Nabinagar, District- Aurangabad;

ii. to restore the post of Petitioner as Anganbadi Sevika in Anganbadi Centre Dhamni, Code No. 119, Project – Nabinagar,



District- Aurangabad;

iii. to issue other appropriate Writ(s)/Order(s)/ Direction(s) in the facts of the case to ensure timely and effective consequential benefits/ relief to the petitioners.”

3. Undisputed facts are that the petitioner was stated to have been appointed to the post of Anganwari Sevika at Anganbadi Centre Dhamni, Code No. 119, Project- Nabinagar, District- Aurangabad in the year 1986. She remained absent on 11.02.2016 due to stomach ache for which she has taken treatment. Notice was issued to the petitioner. She had submitted her explanation along with medical report. The same has not been appreciated by the 4th Respondent- District Programme Officer, Aurangabad. Further, 3rd Respondent- District Magistrate, Aurangabad has also not appreciated the same, in the result, petitioner has presented the present petition questioning the validity of the orders of Respondent Nos. 4 and 3.

4. Learned counsel for the petitioner submitted that for remaining absent on 11.02.2016 due to stomach ache and that it was beyond her control to attend the Anganwari Centre, on that score, imposition of removal from service would be too harsh. Although, petitioner has been working from the year 1986.

5. Per contra, learned counsel for the State resisted the



contention of the petitioner and submitted that petitioner was neither Government Servant nor regular holder of the post. Remaining absent on 11.02.2016 has affected the Anganwari Centre. There is no infirmity in the orders passed by the Respondent Nos. 3 and 4.

6. Heard the learned counsels for the respective parties.

7. Having regard to the fact that petitioner was appointed in the year 1986 to the post of Anganwari Sevika in the aforesaid centre and discharged duties of the post. On 11.02.2016, she remained absent on account of the fact that she was suffering from certain stomach issue and it was beyond her control as is evident from her explanation along with medical report but neither of the respondents have appreciated the factual aspects of the fact that the petitioner has rendered service from the year 1986 till removal from service and that too for remaining absent on one day and it is due to stomach ailment. Imposition of penalty/removal from Anganwari Sevika is too harsh. Therefore, petitioner has made out a case so as to interfere with the order of Respondent Nos. 3 and 4 dated 31.01.2020 and 21.04.2016 respectively. Accordingly, the same are set aside.

8. At this juncture, learned counsel for the State



submitted that having regard to the date of removal and as on today in order to manage the Anganwari Centre some other person must have been appointed. If it is so, the concerned authority is hereby directed to issue show cause notice to the person who is stated to have been appointed and replace the person after obtaining explanation and pass speaking order and communicate the same to the incumbent, if any appointment is against the post of Anganwari Sevika to the aforesaid Centre. Petitioner shall be reinstated as Anganwari Sevika at the aforesaid Centre within a period of two months from the date of receipt of this order.

9. Respondent no. 4 is hereby directed to pay all arrears from the date of removal till reinstatement within a period of one month from today, failing which petitioner is entitled to interest @ 6% per annum of arrears of salary.

10. Accordingly, the instant petition stands allowed. Litigation cost of Rs. 10,000/- shall be paid to the petitioner in view of total non-application of mind by the official respondents in the present case.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	22.12.2021
Transmission Date	

