

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8254 of 2020

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Usha Kumari Wife of Dhananjay Kumar, resident of village- Keshpa, P.s.-
Alipur, District- Gaya, Bihar

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, ICDS, Patna, Bihar
2. The District Magistrate, Gaya
3. The District Program Officer, Gaya
4. The CDPO Tekari, Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Manish, Advocate
For the Respondent/s : Mr. Asit Kumar Jhat, AC to GP 2

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

Date : 22-11-2021

In the instant petition, petitioner has prayed for following
relief/reliefs:

“The present writ application is being filed for setting aside order dated 17.06.2015 passed by District Program Officer, whereby and where under the petitioner has been directed to be relieved from selection from post of Anganwadi Sahayika, Anganwadi Kendra no. 53, Kespa and further against only the part of the order dated 12.07.2019 passed by the Learned Court of District Magistrate Gaya, in connection with Anganwadi Case no. 03 of 2015, whereby and whereunder the petitioner has been ordered to be reselected on post of Anganwadi Sahayika at Centre no. 53, Kespa, and further issuance of an appropriate writ or writs, order or orders, direction or directions to the respondent authorities to reinstate the petitioner to the post of Anganwadi Sahayika, Anganwadi Kendra no. 53, Kespa South and further to comply



in letter and spirit, the remaining part of order dated 12.07.2019 passed by the Learned Court of District Magistrate Gaya in connection with Anganwadi Case no. 03 of 2015 and further for direction to the respondent authorities for granting all consequential benefits to the petitioner and/or for any other relief or reliefs to which the petitioner may be found entitled to in course of hearing of this writ application.”

The petitioner was working as Anganwadi Sahayika along with one Smt. Poonam Kumari, Anganwadi Sevika. Poonam Kumari was subjected to disciplinary proceedings in respect of certain allegation. While dealing with the Poonam Kumari's case the petitioner's services have been terminated on 17.06.2015. Feeling aggrieved and dissatisfied with the order of termination dated 17.06.2015, petitioner preferred an appeal before the Appellate Authority. The Appellate Authority passed order in favour of the petitioner on 12.07.2019 with a direction for re-selection of petitioner to the post of Anganwadi Sahayika. Pursuant to the same the petitioner is stated to have reported before the concerned respondent on 22.10.2019. However, she was not provided the post and so also not extended monetary benefits, thus, the petitioner has presented this petition, in questioning the validity of the termination order dated 17.06.2015 and Appellate Authority's order dated 12.07.2019.



Undisputed facts are that petitioner was appointed as Anganwadi Sahayika. In respect of disciplinary proceedings against Poonam Kumari, Anganwadi Sevika, the petitioner's services have been terminated on 17.06.2015. In other words, there is no initiation of inquiry against the petitioner Usha Kumari. The Appellate Authority while passing order on 12.07.2019 ordered for re-select to the post of Anganwadi Sahayika in so far as petitioner is concerned. The Appellate Authority has not pointed out source of power in respect of deciding appeal against order of termination dated 17.06.2015 that the petitioner is entitled for re-selection to the post of Anganwadi Sahayika. In other words as Appellate Authority he has to examine validity of termination order and reinstatement only and not re-selection. The respondents have not initiated inquiry against petitioner Usha Kumari in accordance with law. That apart, the Appellate Authority has no jurisdiction for ordering re-selection to the post of Anganwadi Sahayika to the petitioner.

In the light of these facts and circumstances, the petitioner has made out *prima facie* case for interference with the order of termination dated 17.06.2015 read with the Appellate Authority's order dated 12.07.2019. Accordingly, both orders are set aside.



The concerned respondent is hereby directed to take back petitioner to the post of Anganwadi Sahayika forthwith and extend all monetary benefits from the date of termination i.e. 17.06.2015 to this day and continue to pay salary.

The above exercise shall be completed within a period of one week from the date of receipt of this order, failing which the petitioner is entitled to litigation cost which is quantified at Rs. 50,000/- (Fifty Thousand). The cost shall be paid by the present C.D.P.O., Tekari Gaya, fourth respondent from his/her pocket and not from the Department or Government.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.11.2021
Transmission Date	NA

