

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12095 of 2018

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Vijay Kumar son of Sri Ramashish Rai, resident of village- Rani Tol, Police Station- Bachhawara, District- Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Divisional Commissioner, Munger Division, District- Munger.
3. The District Magistrate, Begusarai, District- Begusarai.
4. The Deputy Development Commissioner, Begusarai, District- Begusarai.
5. The Block Development Officer, Mansurchak Block, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Santosh Kumar Verma
For the Respondent/s : Mr. Akhileshwar Singh, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 14-09-2022

The petitioner has approached this Court with a prayer for quashing the order dated 26.09.2017 bearing No. 956 issued by the Deputy Development Commissioner, Begusarai (for short 'DDC'), terminating the petitioner's contractual service as Rural House Assistant (Gramin Awas Sahayak) at the Block Mansurchak.

2. The appeal against the said order has also been rejected by the District Magistrate, Begusarai vide order dated 11.06.2018 bearing No. 539, which is also assailed by way of instant writ proceedings.

3. The petitioner's contractual services have been



brought to an end by termination of his contract for violation of the terms of the Contract specifically Clauses 3, 4 and 10 of the Contract.

4. From the pleadings, it can be gathered that Clauses 3 and 4 of the Contract required the petitioner to maintain conduct expected of a government servant in the discharge of his duties. Clause 10 appears to be a condition that the petitioner cannot be unauthorisedly absent for more than seven days.

5. The petitioner admittedly is absent from his duties since 21.02.2017. There is a specific admission to this extent in the petitioner's communication to the DDC dated 06.03.2017 (Annexure-8).

6. By Annexure-8, the petitioner has raised allegations against the Block Development Officer, Mansurchak and nine other persons that they have got his signature on blank paper under threat and duress. He has stated that on 03.03.2017, he had sent intimation in this regard through speed post, copy of which is Annexure-4 to the writ petition.

7. The petitioner has also placed on record an informatory petition bearing No. 91 dated 03.03.2017, said to have been filed before the Sub-divisional Magistrate, Tegra in respect of the alleged threat being meted out to the petitioner by



the Block Development Officer and others.

8. In his response to show-cause issued by the District Rural Development Authority, Begusarai under communication dated 04.03.2017, the petitioner has filed an explanation stating the same reason for his absence from duty since 21.02.2017.

9. The DDC has got the issue regarding petitioner's allegations and continued absence from his contractual duties as Gramin Awas Sahayak inquired by the Block Development Officer, Mansurchak as well as the Sub-divisional Officer, Tegra. In response, these authorities have brought to the notice of the DDC the fact of petitioner's implication in two criminal cases. The earlier case was for alleged offences under Sections 304B/120B/34 of the Indian Penal Code, wherein the petitioner is the first named accused. The allegations in the said case are in respect to the offences committed against the petitioner younger brother's wife, alleging her dowry demand related death by burn injures. Another case in which the petitioner is an accused is Mansurchak P.S. Case No. 19/2017 lodged on 01.04.2017 for the alleged offences under Sections 420/498A/34 of the IPC and Section 3/4 of the Dowry Prohibition Act. The said case has been lodged by one Bulbul Kumari claiming to be the petitioner's wife.



10. The third inquiry was also conducted based on a complaint made by the petitioner before the Chief Minister's Public Grievance Redressal Cell. The said allegation was inquired into by the Assistant Project Officer and Senior Accounts Officer in the DRDA. The said inquiry reveals some additional facts also such as the fact that the petitioner has not returned computer, camera and mobile phone issued to him by the Government for discharging his duties as Gramin Awas Sahayak.

11. In view of facts which were revealed in the course of the three inquiries, having considered the petitioner's explanation in response to the show-cause issued by the DDC, impugned order dated 26.09.2017 has been issued by the DDC finding the petitioner guilty of breach of Clauses 3, 4 and 10 of the Contract forming the basis of petitioner's contractual services.

12. Petitioner's counsel submits that he has made specific allegations against the Block Development Officer that Block Development Officer along with nine other persons had obtained his signature on blank papers under threat and duress and was continuously threatening him for dire consequences if he did not sign the blank papers. It is for this reason that he has



not attended his duty for fear of life since 21.02.2017. The petitioner has placed on record several communications addressed to the DDC, containing the same allegation of threat and duress by Block Development and others.

13. Before this Court, petitioner has also taken a plea that he was undergoing treatment for some illness from 22.02.2017. In support of this plea, he has placed on record one prescription by way of Annexure-6 to the writ petition. Even though the prescription is purported to have been written on 22.02.2017, there is no mention of this prescription or the petitioner suffering from any illness in several communications made after 22.02.2017, which are on record in writ petition. The petitioner has been taking different stands to justify his unauthorised absence.

14. It is not the petitioner's case that he has sent any intimation within seven days from 21.02.2017, for any reason whatsoever in support of his absence.

15. The conclusion of the DDC in the impugned order appears to be after giving opportunity of show cause to the petitioner, which same has been considered.

16. There is admitted unauthorised absence from 21.02.2017; and the same constitutes a breach of the contract



forming basis of petitioner’s contractual engagement. This Court does not find any reason, therefore, to interfere with the order dated 26.09.2017 passed by the DDC, as the same has been affirmed by the District Magistrate (D.M) by a reasoned and speaking order dated 11.06.2018 after due consideration in terms of order dated 26.04.2018 passed on petitioner’s earlier writ petition (CWJC No. 15909 of 2017). The petitioner is not a government servant. His identity being that of contractual employee, action taken by DDC and DM after opportunity of show-cause and consideration of reply by reasoned and speaking order, do not leave any scope for this Court to interfere with the order, much less quash it in exercise of jurisdiction under Article 226 of the Constitution of India.

17. The writ petition is devoid of merit and is dismissed.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	29.09.2022
Transmission Date	NA

