

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2998 of 2012

1. Rekha Kumari Wife of Sanjeeb Kumar Yadav, Resident of Village-Dharahara, Police Station-Raghopur, District-Supaul.
- 2.1. Smt. Poonam Devi W/o Sri Sunil Pandit, D/o Sri Lakshman Pandit and mother of Late Asha Devi, R/o Village and Post-Jimmerahi, P.S. Narpatganj, Distt-Araria.
- 2.2. Nilam Kumari, D/o Sri Lakshman Pandit and mother of Late Asha Devi, R/o Village-Dharahara, P.S. Raghopur, Distt-Supaul.
- 2.3. Mukesh Kumar, S/o Sri Lakshman Pandit and mother of Late Asha Devi, R/o Village-Dharahara, P.S. Raghopur, Distt-Supaul.
- 2.4. Sintu Kumar S/o Sri Lakshman Pandit and mother of Late Asha Devi, R/o Village-Dharahara, P.S. Raghopur, Distt-Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna.
2. The Director I.C.D.S. Of Social Welfare Department, Govt. Of Bihar, Patna
3. Assistant Director I.C.D.S. Of Social Welfare Department Of Government Of Bihar, Patna
4. Divisional Commissioner Of Saharsa
5. District Magistrate, Supaul
6. District Programme Officer, Supaul
7. Child Development Project Officer, Raghopur Block, District - Supaul
8. Mukhiya Of Gram Panchayat Dharahara Block, Raghopur, District - Supaul

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar Agrawal, Advocate
For the Respondent/s : Mr.Shyam Kishor Sharma GA-3

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

Date : 22-09-2022

Heard learned counsels for the parties.

2. In the instant petition, petitioners have prayed for
following reliefs:-



“That, this writ application is being filed for issuance of appropriate writ or writs, direction or directions and order or orders in the nature of certiorari to quash the order of termination of selection of the petitioner from the post of Anganwari Sevika & Sahaiyika of Anganwari Centre no. 113 Paswan Tola Dharahara Block Raghapur contained in Memo no. 1293 dated 29/12/2011 issued by respondents no. 5.”

3. On 01.09.2022, following order was passed:

“Matter is of the year 2012.

Perusal of the order of termination it is evident that based on the allegation that Anganwari Centre was not functioning as on the date of inspection by the inspecting authority. Learned State counsel was asked to verify whether copy of the *Panchnama* and inspection report has been made available to the petitioner along with show cause notice dated 01.10.2011 with reference to inspection dated 06.08.2011, he is not in a position to apprise this Court whether the author of show cause notice dated 01.10.2011 has complied the aforesaid principle in providing ample opportunity of hearing to the petitioner to the extent of providing the aforesaid documents or not? Therefore, custodian of the records relating to termination order dated 29.12.2011 and connected records be furnished to the State Counsel in order to assist in the matter on the next date of hearing.

Re-list this matter on 22.09.2022.

It is made clear that no further time would be granted on the next date of hearing.”



4. Today, learned counsel for the State-respondent on instruction and perusal of the records submitted that 1st petitioner and 2nd petitioner (deceased) were not given ample opportunity of hearing to the extent that show cause notice dated 01.10.2011 was not supported by material information like, copy of the inspection report and other related materials. Therefore, petitioners have made out a *prima facie* case that before their termination from service, they have not been heard in the matter.

5. Accordingly, the order of termination dated 29.12.2011 (Annexure-1) stands set aside. The present writ petition is allowed.

6. The concerned respondent is hereby directed to reinstate Petitioner No. 1 after due opportunity of hearing to the incumbent who is working as on today with the post of Anganwari Sevika after issuance of show cause notice and reply from her and pass speaking order as to how incumbent is not entitled to continue in service. Thereafter, proceed to reinstate 1st Petitioner- Rekha Kumari within a period of three months from today. So far as second petitioner- deceased Asha Devi is concerned, her legal heirs are entitled to monetary benefits. The same shall be calculated from the date of termination till her



death and disbursed monetary benefits to her legal heirs within a period of three months from the date of receipt of this order. Similarly, 1st Petitioner- Rekha Kumari is also entitled to arrears of remuneration from the date of termination till her reinstatement. The same shall be calculated and disbursed in her favour within a period of three months from today. If any, service benefits is required to be extended to 1st Petitioner- Rekha Kumari, the same shall be extended in accordance with law.

7. At this stage, learned counsel for the State-respondent submitted that the petitioners were given opportunity in the appeal stage. The same cannot be appreciated for the reasons that before order of termination the competent authority was required to hear the petitioner after giving all material information alleged to be against the petitioners. Defects if any before the order of termination cannot be cured in the appeal stage.

(P. B. Bajanthri, J)

rakhi/shoaib

AFR/NAFR	
CAV DATE	
Uploading Date	26.09.2022
Transmission Date	

