

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20511 of 2012

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Malti Sinha W/O Sri Satendra Narayan Sinha R/O Village- Gaurapur, P.S.-
Parasbigha, Distt.- Jehanabad

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Social Welfare Department, Patna
3. The Director, I.C.D.S., Bihar, Indra Bhawan, Patna
4. The District Collector, Jehanabad
5. The D.P.O., Jehanabad
6. The C.D.P.O., Jehanabad
7. Amrita Singh, W/o Sri Mantosh Singh, Resident of Village- Gaurapur, P.S.
Paras Bigha, District- Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Bijendra Kumar, Advocate
For the State	:	Mr. Raghwanand, GA-11
For Respondent No. 7	:	Mr. Sudhir Kumar, Advocate

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

Date : 04-08-2022

Heard learned counsels for the parties.

2. In the instant petition, petitioner has prayed for
following reliefs:-

**“(i) A certiorari quashing
the order dated 28.09.2012 passed by the
District Collector, Jehanabad in Misc. case
no. 13/2012 and also quashing the memo
no-1096 dated 29.09.2011 and memo no-
346 dated 05.03.12 issued by the signature
of respondent District Programme Officer,
Jahanabad, Bihar by which the petitioner
was terminated as the Anganbari Sewika
Malti Sinha in Anganbari centre
Gaurapur Code no.- 120 under Larsa
Panchayat in block-Jehanabad, Dist.-**



Jehanabad.

(ii) A mandamus commanding the respondent authorities to reinstate the petitioner on the post of Anganbari Sewika and pay her all the consequential benefit including the arrear of salary with all the admissible allowance including the arrear of salary with all the admissible allowance from the date of removal of the service

(iii) For any other relief or reliefs which may be deemed fit and proper in the interest of justice.”

3. The petitioner was appointed to the post of Anganwari Sevika in Anganwari Centre Gaurapur, Code No.- 120 under Larsa Panchayat in Block Jehanabad, District Jehanabad. On 12.07.2011 petitioner is stated to have remained absent (for one day). On the aforesaid date, concerned authority inspected the Anganwari Centre and found that petitioner was not on duty. In the light of the fact that petitioner remained absent on 12.07.2011, the concerned authority proceeded to issue show cause notice as to why her services shall not be terminated. Petitioner had submitted her explanation to the show cause notice along with medical certificate dated 12.07.2011. Despite apprising her services were terminated by the District Programme Officer, Jehanabad-5th Respondent on 29.09.2011. Feeling aggrieved by the termination order, she preferred appeal before the appellate authority and it was allowed in her favour



in Appeal No. 31 of 2011 on 03.01.2012 while remanding the matter to the 5th Respondent- District Programme Officer, Jehanabad. On 05.03.2012, the District Programme Officer affirmed his earlier termination dated 29.09.2011. Still aggrieved by the order of the District Programme Officer, petitioner preferred once again Appeal No. 13 of 2012 and it was dismissed by the Collector on 28.09.2012. In the light of these facts and circumstances, petitioner was compelled to approach this Court in filing the present petition in the month of October, 2012. In the meanwhile, 7th Respondent- Amrita Singh was selected and appointed to the post of Anganwari Sevika to the aforesaid Anganwari Centre on 17.11.2012 and she is working as such.

4. Learned counsel for the petitioner submitted that termination order is not a reasoned order. So also appellate authority's order while affirming the termination order. It is submitted that show cause notice was issued as to why petitioner's services shall not be terminated for which petitioner has submitted explanation along with the medical certificate. However, there is not even reference or a discussion by the District Programme Officer or Collector while deciding the petitioner's grievance. Therefore, to the above extent, there is



non-application of mind. It is further submitted that for remaining one day absent imposition of penalty of termination would be too harsh. In fact, under the guidelines, there is a provision if an Anganwari Sevika remained absent, warning is required to be issued or imposition of fine in the form of imposing certain costs. If the allegations are severe in nature in that event, termination is permissible. It is also submitted that in identical matters in C.W.J.C. No. 4538 of 2012 Savita Kumari Vs. the State of Bihar & Ors. and C.W.J.C. No. 2905 of 2012 is assisting the petitioner's grievance.

5. Per contra, learned counsel for the State resisted the aforesaid contention of the petitioner and submitted that having regard to the closure of the Anganwari Centre on 12.07.2011 at the behest of the petitioner, therefore, higher authorities have taken necessary steps to terminate the services and it is in accordance with law. Further, appointment of 7th Respondent- Amrita Singh is in order.

6. Learned counsel for 7th Respondent submitted that she is working since 17.11.2012. At this distance of time displacing her from service would cause undue hardship to her and her family. Such hardship is for no fault on her part.

7. Heard learned counsels for the parties.



8. Petitioner was selected and appointed to the post of Anganwari Sevika in the aforesaid Centre on 15.03.1991. She has rendered service up to 12.07.2011 without any complaint. She was stated to have been suffering from certain illness. To that effect she has doctor certificate, the date on which she remained absent on 12.07.2011. The aforesaid incident read with the medical certificate and explanation of the petitioner has not been appreciated by the District Programme Officer and Collector who have terminated the petitioner and confirmed the order of termination.

9. For remaining unauthorized absent for one day, imposition of penalty of termination from service of an employee that too an employee who has rendered service from 15.03.1991 to 29.09.2011 is arbitrary and illegal. That too when the guidelines provides for imposition of penalty of warning/imposition of fine/termination. The District Programme Officer-5th Respondent has also not assigned reason as to why the termination penalty was warranted for remaining one day absent, so also the appellate authority- Collector while confirming termination order.

10. Apex Court's decision in the case of *Union of India Vs. R.K. Sharma* passed in *Civil Appeal No. 4059 of*



2015 for remaining absent for 100 days, he was punished with major penalty of dismissal from service that has been modified to that of compulsory retirement. In the present case, for remaining one day absent that too on medical ground and it is beyond the control of the petitioner in not attending the duty on 12.07.2011, imposition of penalty of termination would be too harsh with reference to service rendered by her for more than two decades. Thus, petitioner has made out a *prima facie* case so as to interfere with the impugned orders dated 29.09.2011 and 28.09.2012 (Annexure- 5 and 8) are set aside.

11. The competent authority is hereby directed to put back the petitioner forthwith and extend all monetary benefits from the date of termination, i.e. 29.09.2011 till reinstatement. Necessary calculation shall be made and paid along with interest @ 6% *per annum*. If the petitioner is entitled to any service benefits other than monetary benefits during the intervening period from 29.09.2011 till reinstatement, the same shall be extended.

12. In so far as 7th Respondent's status is concerned, it is to be noted that she was informed in the sense her selection and appointment was subject to outcome of petitioner's grievance which was pending consideration before



various authorities and further before this Court. She has also rendered almost ten years. Therefore, the competent authority is hereby directed to accommodate her at any other place in order to avoid giving hardship to the 7th Respondent-Amrita Singh and her family. In this regard, State Government or competent authority shall take a decision without disturbing any existing Anganwari Sevika and accommodate till number of years of services to be rendered by the 7th Respondent. In this regard, the State Government-concerned department is hereby directed to take necessary steps to continue the 7th Respondent in service in a different post and place even by creating supernumerary post. If it is impracticable in that event, necessary order shall be passed and communicated to the 7th Respondent- Amrita Singh.

13. Above exercise shall be completed within a period of three months from the date of receipt of this order.

14. Accordingly, the present petition stands allowed.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	18.08.2022
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