

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17212 of 2018

Thakan Devi W/o Late Prayag Mahto resident of village - Bakhari, P.S. Bakhari, District - Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Govt. of Bihar, Patna.
2. The District Education Officer, Begusarai.
3. The District Programme Officer (Establishment), Begusarai.
4. The Block Education Officer, Bakhari, Begusarai.
5. The Headmaster, Middle School, Vikram Nadail, P.S. Bakhari, District Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Amaresh Kumar Singh, Adv.
For the Respondent/s : Smt. Binita Singh- SC-28

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA
ORAL ORDER

5 28-06-2022 Heard the parties.

Petitioner is a widow of one Prayag Mahto, who has filed this writ petition assailing the action taken against her late husband, seeking quashing of order dated 11.01.2012 issued by the District Education Officer, Begusarai whereby, her husband was dismissed from service from the date of appointment and further order has been made to recover the payment made to husband of the petitioner. She further claims the death-cum-retiral dues of her late husband.

The case set up by the petitioner is that her husband was appointed after following due procedure of selection vide



letter dated 09.02.1989 as Assistant Teacher, Primary School where he joined. His certificates were sent for verification and after the same were verified salary was released to the petitioner's husband and he continued to draw the regular salary and also his pay was revised from time to time. The petitioner was lastly posted at Government Senior Secondary Uchcha Madhyamik vidyalaya, vikram Nadail, Bakhri, Begusarai. Where he received an order dated 11.01.2012 issued by the District Education Officer, Begusarai wherein it was stated that the petitioner's husband has wrongly obtained employment by submitting forged certificates and after having served a show-cause notice, an explanation was received from the petitioner's husband. The allegation was held to be proved of his having submitted forged educational certificates.

The order mentions of show-cause notice dated 09.07.2008 served upon him. Whereas the petitioner has submitted that before passing of an order dated 11.01.2012, no notice was given to the petitioner's husband nor he was given an opportunity of hearing. No regular enquiry was held. The order of dismissal is thus assailed before this Court.

Learned counsel for the petitioner submits that the order of dismissal could not have been passed in a manner as



mentioned in the impugned order dated 11.01.2012. A set procedure has been laid down under C.C.A. Rules, which is required to be followed and enquiry is required to be conducted after giving fair opportunity of hearing and reply to the concerned delinquent against whom such allegations have been levelled. More so, when the petitioner's husband was continuously performing his duties with the respondent since long. It is her case that the show-cause notice alleged to have been issued on 9th July, 2008 was never issued to the petitioner's husband, the same was addressed to one Ram Prayag Mahto, an Assistant Teacher working in the Secondary School in Panshalla, Ghorasi as is apparent from the show-cause notice dated 09.07.2008 where the concerned person's name figures at no. 5. Learned counsel thus submits that the allegations were not in relation to the petitioner's husband at all but were in relation to some other different persons. It is submitted that based on such an erroneous show-cause notice order of dismissal has been passed which deserves to be set aside.

Per-contra, learned counsel appearing for the State supports the order dated 11.01.2012 and submits that the petitioner's husband had submitted documents which were not



found to be the original and were forged and in this respect query was made to the Bihar School Examination Board, Patna who have informed the District Programme Officer vide the letter dated 23.11.2011 about the said roll number being not that of the concerned student but of a different student. It is stated that the petitioner's husband ought to have explained his position to the concerned authorities.

I have considered the submissions.

I find that the entire exercise conducted by the respondents is based on a wrong presumption. The name of the deceased husband of the petitioner was Prayag Mahto, whereas the show-cause notice dated 09.07.2008 mentions name of one Ram Prayag Mahto. The document 23.11.2011 (Annexure - C) placed on record with the reply does not reflect name of Prayag Mahto at all and the entire report is wholly vague. It does not mention about the name of the concerned candidate nor it mentions the name of other student to whom the said roll number is reflected. Whereas the columns mentioned in the said document speak of mentioning the serial no., name of the concerned examinee, father's name, date of birth, code and marks obtained, etc. The letter dated 23.11.2011, therefore, does not clarify whether the documents sent to the Board were in



relation to Prayag Mahto or Ram Prayag Mahto.

This Court is of the view that allegations relating to obtaining of appointment illegally have to be examined and enquired into by conducting the regular enquiry as per the Bihar CCA Rules. Since the petitioner's husband was a regular employee. Since no charge-sheet or enquiry has been conducted in terms of Rule 17 of the Rules and a major penalty of dismissal has been passed, the entire exercise is vitiated in law and cannot be sustained.

Accordingly, the present writ petition is allowed. the order of dismissal passed by the respondents dated 11.01.2012 is quashed and set aside and the petitioner's husband would be deemed to be reinstated.

As the concerned delinquent has already expired, no purpose would be served in directing the respondents to conduct an enquiry afresh in accordance with CCA Rules. The petitioner, therefore, would be entitled to all consequential benefits upon setting aside of dismissal order of her late husband and she would be also entitled to the death-cum-retiral benefits of her late husband and also family pension after fixation of the family pension accordingly.

The entire exercise shall be conducted within a period



of three months and the payment shall be released to the widow petitioner along with interest at the rate of 6% per annum. No Cost.

(Sanjeev Prakash Sharma, J)

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