

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18179 of 2011

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1. Manju Devi W/o Shri Yogendra Prasad Yadav Resident Of Village-Gosaipur, P.O.-Sohendar Hat, P.S. Palasi, District-Araria.
 2. Jaymanti Devi W/o Shri Heera Lal Mandal Resident of Village-Gosaipur, P.O.-Sohendar Hat, P.S. Palasi, District-Araria.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Commissioner, Purnia Division, Purnia.
3. The Collector, District Araria.
4. The District Welfare Officer Cum Programme Officer, District-Araria.
5. The Child Development Project Officer, Block Palasi, District Araria.
6. The Mukhiya Grampanchayat Sohendar, P.S. Palasi, District-Araria.
7. The Panchayat Secretary, Sohendar, P.S.-Palasi, District-Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Binod Kumar Yadav, Advocate Mr. Prbhas Ranjan, Advocate
For the State	:	Mr. G.P. Sinha, GA 7 Mr. S.K. Mishra, AC to GA 7

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

Date : 03-08-2022

Heard learned counsels for the respective parties.

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

“For issuance of a writ in the nature of certiorari to quash the order dated 27.04.2011 passed in appeal case no. 05/10-11 by the Commissioner Purnia Division Purnia, the order dated 09.03.2010 passed in Miscellaneous Appeal No. 32 of 2008-09 by the Collector Araria and also the order as contained in Memo No. 1096 dated 26.12.2008 of the District Welfare Officer-cum-District Programme Officer, Araria and further for issuance of a writ in the nature of



mandamus commanding upon the respondents to reinstate the petitioners to her post as Anganbari Sevika and Sahayika of Anganbari Centre No. 187 Buddhi 2 Block Palasi District Araria and to pay them all that salary.”

Matter is of the year 2011. There is no response from the State either in filing counter affidavit or assisting in the matter. Today, learned counsel for the State submitted that he does not have file. Therefore, this Court was compelled to proceed with the available records.

These two petitioners were appointed as Sevika and Sahayika on 26.08.2004. Petitioner no. 1, Sevika was suffering from illness and she was admitted in hospital for two days. She had given instruction to Sahayika, second petitioner to look after the Anganbari Centre whereas District Welfare Officer stated to have inspected the Anganbari Centre on 14.11.2008 beyond the working hours. Based on the inspection report the concerned authority proceeded to issue show cause notice on 18.11.2008. The petitioners submitted their reply whereas order of termination was issued on 26.12.2008. Perusal of the order of termination, it is in the manner of cyclostyled. In other words, only filling up of gap which shows that there is a total non-application of mind by the authority who had terminated the services of the petitioners. The authority who had terminated the services has not even discussed



or analysed the absent by the first petitioner which is supported by medical certificate. That apart if the concerned Officer has inspected beyond the working hours of the Centre it is quite natural that Centre would have been locked.

In the light of these facts and circumstances and the fact that petitioners have worked from 26.08.2004 and termination is based on allegations that the Centre was closed beyond working hours. Both the petitioners were not available during the inspection. No doubt it is a serious issue if the Anganbari Centre is closed during the working hours. When the second petitioner disputed that Anganbari Centre was very much opened during the working hours whereas inspection was conducted beyond the working hours in that event a domestic inquiry should have been resorted by the concerned authority in respect of examining the version of the petitioner no. 1 that she was suffering from illness and she was admitted insofar as second petitioner's version that inspection was conducted beyond the working hours of the Centre.

Hon'ble Apex Court held that even if any penal action is required to be taken against a temporary employee or ad hoc employee based on certain allegations normally domestic inquiry was warranted. In the present case, competent authority has not



resorted to holding of a domestic inquiry when the disputed facts are involved in the matter.

In the facts and circumstances of the case, the order dated 26.12.2008 passed by the District Welfare Officer-cum-District Programme Officer, Araria (Annexure-6) stands set aside. The competent authority is hereby directed to reinstate the petitioners as Sevika and Sahayika and extend all service benefits including arrears of salary during the period from 26.12.2008, the date on which the petitioners were terminated till reinstatement. They are entitled to interest @ 6% per annum on the arrears of amount. In the normal course, respondent would make an alternative arrangement in the event of termination of existing Sevika and Sahayika from the Anganbari Centre. Such an alternative arrangement is in vogue in that event such of those persons who were appointed as Sevika and Sahayika in place of the petitioners shall be given show cause notice that petitioners' grievance was pending consideration in the Court of law. Therefore, their services were required to be terminated after issuance of show cause notice and proceed to terminate their service and accommodate petitioners. If the incumbents Sevika and Sahayika could be accommodated elsewhere in that event this



order would not come in the way of the accommodating those two
Sevika and Sahayika in any Anganbari Centre.

With the aforesaid observations, the present writ petition
stands allowed.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

