

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.991 of 2019

In
Civil Writ Jurisdiction Case No.15305 of 2013

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Smt. Sima Devi W/o Sri Rajesh Kumar, Resident Of Village - Alipur, P.O. Bhakari, P.S. Dhanarua, District - Patna, AT Present then Aangawari Sevika of Center Code 79 Nadpura Panchayat, under Child Development Project Office Dhanarua, District - Patna.

... .. Appellant

Versus

1. The State of Bihar through its Principal Secretary Department of Social Welfare, Govt. of Bihar.
2. The Director, Social Welfare Department, Govt. of Bihar, Patna.
3. The District Magistrate, Patna.
4. The District Program Officer, Patna.
5. The Child Development Program Officer, Dhanrue, Patna.

... .. Respondents

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Appearance :

For the Appellant/s : Mr.Ranjeet Tiwary
For the Respondent/s : Mr.Gyan Prakash Ojha (Ga7)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 01-09-2022

The appellant-petitioner is aggrieved by the order dated 20.6.2019 passed in C.W.J.C. No. 15305 of 2013 by which the Hon'ble Single Judge dismissed the writ petition.

2. The matrix of facts giving rise to the present appeal is/are as follows:

3. On 26.6.2003, the appellant-petitioner was selected as 'Anganbari Sevika' for Anganbari centre no. 79, Dhanarua, Patna (henceforth for short 'the centre') vide letter



no. 51 dated 26.6.2003 issued by the Child Development Project Officer, Dhanarua, Patna (henceforth for short 'the CDPO)

(Annexure-3 to the writ petition).

4. It is the case of the appellant-petitioner that after serving for a almost decade with complete satisfaction of the officials and the beneficiaries, all of a sudden on 23.3.2012, she was served with a letter no. 557 dated 23.3.2012 by the District Programme Officer, Patna (henceforth for short 'the DPO') communicated to her on 28.3.2012 by which she was asked to submit a show cause on the following charges which allegedly was found by 'the CDPO'.

(i) the 'halwa' prepared at the centre was below quality;

(ii) the dry ration was not provided in required quantity;

(iii) the children were not in proper dress

(Annexure-4 to the writ petition).

(5) It is the case of the appellant-petitioner that neither the time of surprise visit nor the inspection was mentioned nor it was the case that 'halwa' was got tested before any government lab and a report about its substandard quality was taken note of by 'the DPO'.



6. Further case of the appellant-petitioner was that the guidelines that was to be followed for such inspection was missing and accordingly she submitted her show-cause on 28.3.2012 itself stating therein that:

(i) the 'halwa' was of good quality and in appropriate quantity;

(ii) the dry ration was distributed as per the required quantity;

(iii) the payment for the uniform was made to the parents of the children three years ago and as such the same had got torn due to such long period

(Annexure-5 to the writ petition).

7. Besides the aforesaid show cause, the appellant-petitioner also filed photo copy of distribution register of the beneficiaries in support of her show cause.

8. However, vide letter no. 350 dated 29.3.2012 'the CDPO' informed the appellant-petitioner that 'the DPO has decided to relieve her from her post with further direction to surrender one month's amount of Rs. 3150/- that was taken in advance.

(Annexure-9 to the writ petition).

9. Aggrieved, the appellant-petitioner preferred



appeal vide Appeal No. 25 of 2012 which came to be dismissed by the respondent District Magistrate, Patna on 13.5.2013 holding that the order passed by 'the DPO' need no interference (Annexure-2 to the writ petition).

10. Still aggrieved, she preferred C.W.J.C. No. 15305 of 2020 which as stated above was dismissed on 20.6.2019 by the learned writ Court holding as under:-

A surprise inspection was made on 22.3.2012 by the Child Development Project Officer, Dhanarua, and it was found Halwa was of sub-standard, at that time, the beneficiaries have come forward and orally stated the petitioner used to distribute less quantity of rice and Dal. As per the guidelines, 6 kg. rice and 3 kg, Dal were to be distributed to each beneficiaries, but instead less than half quantity of food-grain was being given to the beneficiaries. During the proceeding, the petitioner before the District Magistrate has orally accepted the charges and tendered her unconditional apology. The explanation offered by the



petitioner was not accepted by the District Programme Officer, accordingly, punishment was inflicted and the same has been affirmed by the appellate authority.

Learned counsel for the petitioner has placed reliance on Annexure-5 and submitted that the chart bears the signature of beneficiaries, it is very easy to obtain the signature and thumb impression of any beneficiary under the coercion. However, when the beneficiaries have come forward, orally stated about the short supply of food-grains and that too the petitioner has accepted this fact during the proceeding, in such circumstances, Annexure-5 has no relevance at all to give any succor to the petitioner.

In such view of the matter, this Court does not find any merit in this writ petition, accordingly, the same is dismissed.

11. The appellant-petitioner thereafter preferred the present appeal.



12. Heard counsel for the parties.

13. The learned counsel for the appellant-petitioner submitted that:

(i) she always served good 'halwa' to the children and there was no occasion for 'the CDPO' to declare it as sub-standard in absence of the same having been taken, sealed, sent to the Lab and/or a report of the government Lab stating it to be of sub-standard quality;

(ii) further she had submitted the list of beneficiaries to show that the dry ration was given in prescribed quantity which was not taken note by the respondent authorities before taking decision to relieve her from her post;

(iii) as she had made payment of uniforms three years ago, naturally, the uniform had torn.

14. The learned counsel for the appellant-petitioner submits that once she had denied all the allegations levelled against her, following the guidelines as per memo no. FCDS/35010/1-12-956 dated 14.3.2012 issued by the Director, Social Welfare Department, Bihar, Patna should have been followed and only after a proper enquiry followed by providing



a report (with supporting documents) to the appellant-petitioner and allowing her to answer to the said report, the authorities should not have taken decision in a haste and prejudiced manner as was done.

15. We have gone through the facts of the case. Admittedly, there is nothing on record to show the satisfaction of the 'the CDPO' to arrive at the conclusion that the 'halwa' is of substandard quality. Mere satisfaction of 'the CDPO' cannot be the basis for declaring it to be of sub-standard quality.

16. Further, it is not the case of the respondents that 'the CDPO' took into account the written statements of concerned beneficiaries including the appellant-petitioner before making recommendation against her and on the said basis of report dated 22.3.2012, the very next day on 23.3.2012 'the DPO' sought explanation which was communicated to her on 28.3.2012.

17. She accordingly, submitted her explanation on the same day but ignoring the same, the order was passed on 28.3.2012, again on 28th March, 2012 itself, thus completely showing non application and prejudiced mind. It is further surprising that the Collector overlooked all these matters and in a routine manner rejected the claim of the appellant-petitioner



vide an order dated 3.5.2013.

18. Thereafter she preferred CWJC No. 15305 of 2013 which was dismissed of the learned writ Court on 20.6.2019.

19. Aggrieved, she preferred present appeal.

20. On 28.8. 2022, when this case was taken up, taking into account all these facts and prima facie satisfied that the respondents have erred in passing the order of removal of the appellant-petitioner from her post, the specific query was made from Mr. Gyan Prakash Ojha, learned Counsel appearing for the State which read as follows:

Learned counsel for the State is hereby directed to ascertain whether incumbent Anganwari Sevika-her selection and appointment is with rider or condition to the extent that her selection and appointment is subject to result of litigation filed by Smt. Sima Devi or not?

Re-list this matter on 01.09.2022.

21. A supplementary counter affidavit has been filed on behalf of the State through 'the CDPO' which states as under:-

"That it is relevant to state here that under clause



2 of the appointment letter dated 31.12.2014 it is indicated that resolution can be done pursuant to order of the competent court”.

22. This Court taking into account all the aforesaid facts that has been incorporated hereinabove is of the considered view that the respondent authorities have completely erred in removing the appellant-petitioner on vague alleged charges which was never enquired into before coming to the conclusion. ‘The DPO’, in a deliberate and whimsical manner ignored the government guidelines while removing the appellant-petitioner from the post of ‘Anganbari Sevika’ while the Collector too sitting in appeal did not applied his mind and only followed the observations made by ‘the DPO’ to reject the appeal preferred by the appellant-petitioner.

23. We thus hold that the learned writ court erred in not appreciating the aforementioned factual aspect and not interfering with the matter and accordingly, the said order dated 20.6.2019 as also the orders of ‘the DPO’ dated 28.3.2012 and the Collector dated 3.5.2013 are hereby set aside.

24. The Collector, Patna shall take decision to reinstate the appellant-petitioner forthwith. However, for the period she was out of job, she will be entitled to 50% of the



salary. For all other benefits, the said period shall be considered as continuity in service.

25. With the aforesaid observations, the present appeal stands allowed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Ravi/-

AFR/NAFR	NAFR
CAV DATE	NA
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