

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1671 of 2019

In

Civil Writ Jurisdiction Case No.1135 of 2016

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1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
 2. Director-in-Chief, Health Services, Bihar, Patna.
 3. Civil Surgeon-cum-Chief Medical Officer, Darbhanga.
 4. In-charge Medical Officer, Primary Health Centre, Baheri, Darbhanga.

... .. Appellant/s

Versus

Vidyawati Sinha @ Kumari Vidyawati Sinha Wife of Sri Nawal Kishore Prasad Singh, Resident of Village-Teka Bigha, Police Station-Chandi, District-Nalanda.

... .. Respondent/s

Appearance :

For the Appellant/s : Sri S.D. Yadav, AAG 9
Mr. Anil Kumar Verma, AC to AAG 9
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 04-08-2022

Heard learned counsels for the respective parties.

In the instant appeal, the appellant-state has questioned the validity of the order dated 21.02.2019 passed in CWJC No. 1135 of 2016 by the learned Single Judge.

The respondent who was appointed as an Auxiliary Nurse Midwifery (ANM) on 13.08.1991 the appellants noticed that certain alleged irregularities were in her appointment. Such issue was taken note of and terminated the service of respondent on 26.08.2004. It was a subject-matter of litigation before this Court



and order was passed in favour of the respondent and further after certain proceedings once again respondent whose services were terminated on 09.09.2008 it was also subject matter of litigation before this Court and orders were in favour of respondent. Thereafter, once again her services were terminated on 20.11.2015 which was the subject matter of CWJC No. 1135 of 2016.

Learned counsel for the State was asked as to whether any departmental inquiry was launched against the respondent having regard to the fact that she was appointed on 13.08.1991 and her period of probation was completed. For the first time, her services were terminated on 28.06.2004, thereafter, on two occasions on 09.09.2008 and 20.11.2015.

Perusal of the records, it is evident that no departmental inquiry has been launched against the respondent. In other words, there is a violation of Article 311 of the Constitution in not resorting to disciplinary proceedings. In other words, appellate/disciplinary authority-respondent should have resorted to in initiating disciplinary proceedings in relevant Bihar Government Servant (Classification, Control and Appeal) Rules, 2005. Despite giving two time chance the appellants-State has not rectified their error.



In the light of these facts and circumstances, the appeal stands dismissed with cost of Rs. 5,000/- (Five Thousand). The cost shall be remitted in the Patna High Court Legal Services Committee. Cost has been imposed with reference to the conduct of the disciplinary authority in not adhering in accordance with the service particulars of the respondent read with the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005. It is also noticed that State has not taken any action against the disciplinary authority in not following Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 against the respondent which is resulted in financial loss to State Exchequer.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Vikash/-

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

