

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5619 of 2022

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Supriya Goswami Daughter of Sri Rukmani Raman Goswami Resident of
Street-Hisariyan, Beharipura, Brindavan, District-Mathura, (U.P.) Pin-281121.

... .. Petitioner/s

Versus

1. The High Court of Judicature at Patna, through the Registrar General, Patna High Court Patna.
2. The Registrar General, Patna High Court Patna.
3. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
4. The Principal Secretary, General Administration Department, Govt. of Bihar, Old Secretariat, Patna.
5. The Secretary-Cum-Legal Remembrancer, Department of law, Govt. of Bihar, Old Secretariat, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Avanindra Kumar Jha, Advocate
For the Respondent/s	:	Mr.P.K.Verma (AAG-3)
For the High Court	:	Mr. Piyush Lal, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 09.11.2023

Heard the parties.

2. The present writ petition has been preferred for
the issuance of a writ of *certiorari*:

*(i) for quashing of the memo no. 43918-
43921 dated 28th September, 2021 (Annexure-1) issued
by the Registrar General, Patna High Court, Patna*



(Respondent No.2), whereby and where under the Principal Secretary, General Administration Department, Govt. of Bihar, has been requested to get the necessary notification issued for giving effect to the resolution of the Hon'ble High Court, Patna, for terminating the probation of the petitioner and discharging her from the service of Bihar Subordinate Judicial Service, with immediate effect.

(ii) for quashing of the notification issued by the General Administration Department, Govt. of Bihar, as contained in memo no. 13247 dated 05.11.2021 (Annexure 2) whereby and whereunder the petitioner has been discharged from the service of Bihar Subordinate Judicial Service, as Judicial Magistrate, 1st Class (Probationer).

(iii) further, for the issuance of writ of mandamus commanding the Respondents concerned to reinstate the petitioner in her services as Judicial Magistrate, 1st Class, with all consequential benefits.

(iv) for directing the respondents concerned to confirm the services of the petitioner in the Bihar Subordinate Judicial Service.



3. The matrix of facts giving rise to the present writ petition is/are as follows:-

4. The petitioner was a successful candidate for the 27th Bihar Subordinate Judicial Service (Civil) examination. Accordingly, she was appointed as Civil Judge (Probationer), (Junior Division) vide notification/ memo no. 18591 dated 06.12.2013 issued by the General Administration Department, Govt. of Bihar, Patna (henceforth for short 'the GAD') (Annexure-3 to the petition).

5. Pursuant to the said notification, the petitioner submitted her joining/ assumed the charge of Civil Judge (Junior Division) at Civil Court, Patna vide Charge Report dated 07th of March 2014.

6. Further, after completion of her training under the District & Sessions Judge, Patna, the petitioner was conferred the powers of the Judicial Magistrate, IInd Class vide notification/memo no. 5004-12 dated 26.05.2015 issued by the Hon'ble Patna High Court. Later, effective 23.02.2016, she assumed the charge of Judicial Magistrate, 1st Class at Civil Court, Patna.

7. The further case of the petitioner is that Rule 24 of the Bihar Civil Service (Judicial Branch) (Recruitment)



Rules 1955, (henceforth for short 'the 1955 Rules') envisage conditions for confirmation as Civil Judge (Junior Division) and read as follows :

(i) completion of two years of service from the date of first appointment;

(ii) passing of such test as may be prescribed by the High Court;

(iii) recommended by the High Court for such confirmation.

8. According to the writ petitioner, in the year 2020, she successfully passed the Departmental examination held on 12.12.2020 and 13.12.2020. Earlier, the process of Departmental examinations was stayed by the Patna High Court between the year 2017 to 2019.

9. The contention put forward is that so far as her work performance is concerned, for the part of the year 2016 and thereafter from 2018 onwards, it was mostly found to be outstanding. However, as from the end of the year 2016 to early 2018, she remained on different sanctioned leaves, totalling 800 days, the record of said period including the year 2017 is/are not available.

10. The further case is that from part of the year



2020 to first two quarters of 2021, her work performance was again found to be outstanding. However, for one quarter in the year 2019, it was found to be poor.

11. The petitioner claimed that if the period of leave is discounted, her overall performance/output was at par with several other Officers whose services were confirmed by the Patna High Court.

12. Her agony started when in the month of August, 2019, the Registrar General, Patna High Court, vide office letter no. 70979 dated 30th August 2019 put the petitioner on notice which read as follows:-

".....on appraisal of the service records of Ms. Supriya Goswami, Judicial Magistrate I" Class, Patna, the Hon'ble Court has been pleased to resolve to put her to show cause to explain as to why her services be not dispensed with on account of her remaining on leave for such long periods, thereby severely hampering her judicial performance and output....."

13. In response to the said notice, the petitioner submitted her show cause explaining factors leading to the leaves most of which were sanctioned by the Patna High Court:



(i) **03.11.2016 to 01.05.2017 (180 days)**
maternity leave sanctioned vide letter -No.83863
dated 23.12.2016;

(ii) **02.05.2017 to 02.11.2017 (185 days)** child
care leave sanctioned vide letter No.49690 dated
25.07.2017;

(iii) **03.11.2017 to 03.05.2018 (182 days)**
extension of child care leave sanctioned vide letter
No.88181 dated 16.12.2017 & 37460 dated
16.05.2018;

(iv) **26.07.2018 to 06.10.2018 (73 days)** for
which applications submitted on 17.07.2018 &
27.08.2018 though it remained an unsanctioned
leave and

(v) **05.02.2019 to 03.08.2019 (180 days)**
maternity leave sanctioned vide letter no. 22374
dated 08.03.2019.

14. It is her case that pursuant thereto, vide letter no.
83160 dated 24.10.2019, the Registrar General of the Patna
High Court though not satisfied with the explanation warned
her to be careful in future. The letter read as follows:-



“From,

विभु भूषण पाठक
महानिबंधक, उच्च न्यायालय, पटना

*Bidhu Bhushan Pathak
Registrar General,
High Court of Judicature at Patna.*

Dated, Patna, the 24.10.2012

To

*The District and Sessions Judge,
Patna.*

Sir,

I am directed to say that considering the show cause reply dated 23.09.2019 of Smt. Supriya Goswami, J.M. 1" Class, Patna the Hon'ble Court did not find the explanation to be satisfactory. The Officer is warned to be careful in future and not to apply for any excessive leave which in the present case is almost 800 days.

The officer concerned may be informed accordingly.

Yours faithfully

Registrar General

15. The submission of the petitioner is that at the onset of announcement of nationwide lockdown on 23.03.2020, though there was direction of the Patna High Court not to leave the Head Quarter, due to urgent work, she went on casual leave to her home town at Uttar Pradesh. Very next day, the nationwide lockdown came into force and the movement of public and private transportation systems were



severely hampered. Thus, she remained stranded at her home place and could not resume duty till 20.09.2020, the leave absence being 181 days.

16. The submission is that under the such extraordinary situation, she was compelled to make requests for leave/extensions of leave, through the email/her staff in the Civil Court.

17. It is the submission that again in the month of May, 2021, she had to visit Uttar Pradesh due to urgent work for which station leave applications were submitted from time to time.

18. The petitioner's case is that ignoring the aforesaid facts and without taking a sympathetic view, the memo no. 43918-43921 dated 28.09.2021 was issued by the office of the Registrar General, Patna High Court addressed to 'the GAD' which followed the notification of 'the GAD' vide memo no. 13247 dated 05.11.2021 by which she was discharged from the service under Rule 11 (x) of the Bihar Judicial Service (Classification, Control and Appeal) Rules, 2020.

19. The petitioner alleges that before the issuance of the letter of termination, even the principles of natural justice



has not been followed by allowing her to defend her case.

20. Learned Counsel for the petitioner cited the case of **Anchal Dwivedi vs State of Bihar** disposed of on **27.09.2023** by Patna High Court in **CWJC No. 9745 of 2015** in support of her case.

21. Mr. Piyush Lall, learned Counsel is representing the Patna High Court.

22. A counter affidavit has been filed by the High Court and Mr. Lall has taken this Court to Rule 24 of the 'the 1955 Rules' according to which, a candidate selected/appointed for the post remains on probation and will be eligible for confirmation as Civil Judge (Junior Division) only upon completion of two years of service from the date of first appointment, has to pass the test as prescribed by the Patna High Court and has to be recommended by the High Court for confirmation.

23. He further submits that as per the Bihar Civil Rules (Judicial Branch) (Training and Departmental Examination) Rules, 2019, (henceforth for short 'the 2019 Rules') a Civil Judge (Junior Division) appointed on probation will be eligible to be confirmed as permanent as provided under Rule 24 and 26 of the 'the 1955, Rules'. However, in



case of non-confirmation, he/she would be liable to be discharged from service any time in consultation with the Patna High Court.

24. It is his submission that between 03.11.2016 to 01.08.2019, she continuously availed leave of different nature for a total period of 800 days forcing the Patna High Court to put her on show cause to explain why her services be not dispensed with as her long leave was hampering the judicial performance causing adverse effect to the handling and disposal of the cases. The Registrar General, Patna High Court requested the District and Sessions Judge, Patna vide letter no. 70979 dated 20.08.2019 (Annexure-11 to the writ petition) to obtain her reply to the show cause.

25. The petitioner thereafter submitted her reply on 23.09.2019 (Annexure-12 to the petition). The Patna High Court though did not find her explanation satisfactory, it chose not to proceed further but not before warning her to be careful in future and not to apply for any excessive leave. This was communicated vide letter no. 83160 dated 24.10.2019 (Annexure-15 to the writ petition).

26. He submits that still, this warning was not taken seriously by the petitioner and on 23.03.2020, despite the



specific direction of the Patna High Court to all Judicial Officers not to leave the headquarter, she chose to defy the said directive, left her place of posting and proceeded to her native district, Uttar Pradesh. This despite the fact that her leave application was immediately rejected on the same day by the District and Sessions Judge, Patna. Thereafter, she kept on sending application/mails and remained unauthorizedly absent till 29.09.2020 when she resumed duty, the nationwide lockdown was lifted long before that date.

27. Learned Counsel submits that in terms of ‘the 2019 Rules’, the Patna High Court vide letter no. 17200-17237 dated 23.03.2021 considering that the matter related to grant of 1st increment as well as confirmation in the cadre of Civil Judge (Junior Division) of Officers were pending, routinely letters were issued to all the District and Sessions Judge of the State to submit their response(s) on the Probationer Judicial Magistrates working under them.

28. The District and Sessions Judge, Araria vide letter no. 350 dated 25.03.2021 submitted report regarding the petitioner and other Officers recommending grant of 1st increment as well as confirmation in the cadre.

29. However, the said report was followed by



another letter no. 634 dated 29.05.2021 sent by the District and Sessions Judge, Araria informing the Patna High Court that the petitioner has left the headquarter on 16.05.2021 giving station leave petition and a separate application dated 17.05.2021 for grant of casual leave from that date. The petitioner thus did not wait for sanction of the leave, before she left the station, despite the warning issued earlier.

30. He further informed that for the working days i.e 18.05.2021 to 22.05.2021, 24.05.2021, 25.05.2021 and 27.05.2021, the petitioner gave no information regarding her absence from the Court and in the process, she has remained unauthorizedly absent from the headquarter from 17.05.2021 till 28.05.2021.

31. Therefore, the Hon'ble Standing Committee in its meeting held on 16.9.2021 vide Agenda Item No. 19 considered the above report submitted by the District and Sessions Judge, Araria and was pleased to resolve as follows:-

"The Committee has been informed that the matter of confirmation of the officer concerned is pending for consideration and the Learned District & Sessions Judge, Araria has reported her conduct to be satisfactory. It appears that the officer reported upon worked under



District & Sessions Judge, Araria for a period of three months. Registry is directed to obtain fresh report from District & Sessions Judge, Araria about the basis of his report as well as report on her work and conduct with leave of absence. At the same time the registry will call for a report from District & Sessions Judge, Patna about the work and conduct with leave of absence of the officer concerned as she was posted there from 2013 to 2020. Registry is directed to place the matter alongwith reports in the next meeting."

32. In response to the above, the District and Sessions Judge, Patna vide letter no. 13303 dated 21.9.2021 submitted his report stating that on perusal of leave of absence and number of cases disposed of by the petitioner during the period 23.2.2016 to 31.12.2020, her performance was not found to be upto the mark. The report further stated that even after the letter no. 83160 dated 24.10.2019 issued by the Patna High Court warning the petitioner to be careful in future and not to apply for excessive leave, she was issued with two show cause notices dated 25.10.2019 and 29.11.2019 for proceeding on leave without prior information and sanction.

33. It was further informed that again despite the



direction of the Patna High Court vide letter no. 19078-19114 dated 23.3.2020 to the Officers and staffs not to leave station without prior permission of the sanctioning authority, the petitioner applied for station leave on 23.3.2020. It was immediately rejected, yet she unauthorizedly went on leave from 23.3.2020 to 20.9.2020 and joined only on 21.9.2020.

34. The District and Sessions Judge, Patna alongwith his said letter dated 21.9.2021 also submitted leave details of the petitioner for the period March, 2014 to December, 2020 which showed that she remained on leave for a total period of 1227 days with a number of leaves being extraordinary one.

35. Similarly, the District and Sessions Judge, Araria also submitted his report under letter No. 1415 dated 21.9.2021 stating that for the year 2021, the petitioner had availed leave for a total period of 96 days.

36. The Standing Committee thereafter in its meeting held on 22.9.2021 vide Agenda Item No. 3 considered the above matter and was pleased to resolve as follows:-

"Having considered the matter and inputs received from District & Sessions Judges of Patna and Araria respectively, against Ms. Supriya Goswami,



Judicial Magistrate 1" Class, Araria whose services are yet to be confirmed, the Committee finds her to be unsuitable for the job and is not inclined to confirm her services. Hence, in accordance with the terms and conditions of her service, the committee resolves to recommend to the Hon'ble Full Court for termination of service of Ms. Supriya Goswami, Judicial Magistrate 1" Class, Araria, putting her on notice for a month. Registry to take follow up action. The Hon'ble Court in its said meeting vide Agenda Item No. 4 also considered the matter relating to grant of 1" increment to the petitioner and was pleased to resolve as follows:- "In the light of resolution against Agenda Item No. 3, the matter is also referred to the Hon'ble Full Court."

37. Therefore, the Full Court in its meeting held on 28.9.2021 vide Agenda Item No. I considered the matter relating to termination of service of the petitioner in the wake of the recommendation made by the Hon'ble Standing Committee vide its Resolution dated 22.9.2021 and was pleased to resolve as follows:-

"The Full Court has considered the matter and finds that the performance of Ms. Supriya Goswami, JM 1" Class, Araria



since her posting on substantive post is not satisfactory. The Full Court is of the opinion that Ms. Supriya Goswami is not suitable to continue as Judicial Officer. Hence, the Full Court resolves that the probation of Ms. Supriya Goswami be terminated and she be discharged from service with immediate effect. Registry to take follow up action." The Hon'ble Full Court in its said meeting vide Agenda Item No. 2 also considered the matter relating to grant of 1" increment to the petitioner and was pleased to resolve as follows:- "In view of the preceding resolution, the Full Court declines to grant increment to Ms. Supriya Goswami, JM, 1" Class, Araria."

38. Learned counsel for the High Court submits that it was in the aforesaid background that the letter in question was sent by the Patna High Court to the State Government stating that her performance has not been found to be satisfactory to allow her to continue as Judicial Officer and it has been resolved that probation of the petitioner be terminated and her services be dispensed with immediately. This followed the subsequent letters in question.

39. Fully defending the said orders, the stand of the Patna High Court is that the impugned decisions are not



arbitrary as the petitioner was discharging sovereign functions of the State where timely dispensation of justice is of utmost importance. Further, though she was entitled to take leaves, the Court was equally entitled to not retain a Judicial Officer whose performance was not found to be satisfactory.

40. In this context, learned counsel relied on the following observation of the Hon'ble Supreme Court in the case of **Registrar, High Court of Gujarat and another Versus C.G. Sharma (reported in (2005) 1 SCC 132)** which at Para No. 47 read as follows:-

"It may well be in some cases that in spite of satisfactory performance still the authority may desire to not to extend the probation of an employee in public interest, as in the opinion of the said authority, the post has to be manned by a more efficient and dynamic person".

41. Further, the case of **Anchal Dwivedi Versus The State of Bihar and others** (supra) do not come to her rescue as in that case, the Hon'ble Court was pleased to set aside the order of termination of probation on the ground that there was absolutely no material available before the Patna



High Court to form an opinion that the petitioner therein was not fit to be retained in service. In the disciplinary proceeding initiated against the Officer, in the cited case, he was exonerated. He also had outstanding 'ACR' recorded for the 18 quarters immediately prior to his discharge. In the present case, the petitioner habitually abandoned her duty without prior information and sanction of the leaves applied for; that too outrageously long periods.

42. Further, in the case of the present petitioner, contrary to the case of Anchal Dwivedi, as stated hereinabove there was sufficient material on record for the Patna High Court to reach an objective satisfaction, that the present petitioner was not fit to be retained in service on the basis of her judicial performance and habitual absence from duty.

43. He concluded by submitting that as one of the condition for confirmation is the recommendation to be made by the Patna High Court; in view of the fact that she was not found her suitable to be confirmed, the orders in question came to be passed. He further submits that as the petitioner was on probation and was not confirmed, she was simply discharged from service. The same is fully justified and the writ petition is fit to be dismissed.



44. The admitted fact is that the petitioner was appointed as Civil Judge and was on probation. Though the petitioner claims that for the period she worked, it was found outstanding, this Court can not ignore the fact that her conduct right since she joined the post till her discharge from the service was deplorable and unbecoming of a Judicial Officer inasmuch as on one pretext or other, she continuously remained absent for 800 days at the first instance.

45. This resulted in the letter no. 70979 dated 30.08.2019 issued by the Registrar General, Patna High Court directing the District and Sessions Judge, Patna to seek show cause on the point why her services be not been dispensed with.

46. The office of the Registrar General later vide its letter no. 83160 dated 24.10.2019 considering her show cause though having found the same to be dissatisfactory gave a clear warning not to apply for excessive leave.

47. However, this failed to cut any ice with her inasmuch as and as per the report of the District and Sessions Judge, Patna, she was issued two show cause notices on 25.10.2019 and 29.11.2019 for proceeding on leave without prior information. Further, on the eve of COVID-19 pandemic



lockdown announcement, despite the directive of the Patna High Court, not to leave the Headquarter, she chose to defy the order and went on leave on 23.03.2020 itself. This despite the fact that her application was immediately rejected. Once at her home town, she kept on shooting leave application and it is important to incorporate one of them for the proper appreciation.

*“From: Supriya Goswami
Judicial Magistrate 1st
Patna.*

*To, The District and Sessions Judge
Civil Court, Patna.*

Sub: Information regarding unable to join the court due to lockdown in redzone area by reason of COVID 19.

Respected,

With due respect I have to state that I came to my home town due to some urgent work but I couldn't join the court due to lockdown by reason of COVID 19, I couldn't arrange the transport from Vrindaban district Mathura to Patna due to lockdown of flights and trains even buses etc. in the mean time my father in law has been expired in Agra and I have to come Agra, now I



could not travel because district Agra is in Redzone and my area containment zone (hot-spot) of COVID 19. nobody can go outside and also nobody can come in the area. However I am willing to come Patna and join the court.”

(underline our)

48. From the aforesaid communication, it is clear that though the petitioner was unable to come to Patna, she had no problem travelling to Agra from Vrindaban. Later, even after joining the post as per her convenience, she continued with her misdemeanour and in the year 2021, she once again left the Headquarter forcing the District Judge, Araria (who had recommended for her confirmation) to send letters to Patna High Court highlighting this issue.

49. In the aforesaid background, when the confirmation of the Probation Officer was taken into consideration, the Standing Committee was bound to look into her past conduct and thus it sought reports from the two District Judges (of Patna and Araria) where she had served/was serving and thereafter found that the petitioner is not fit to be confirmed. This culminated into the orders in question.



50. So far as the decision of Patna High Court in the case of **Anchal Trivedi vs. State of Bihar (supra)** is concerned, that case was quite different *inasmuch* as though there was allegation against her, the Court had noticed that those allegations were made on the instigation of the District Judge and the complainant later accepted this fact. In the aforesaid background, the Court interfered in the matter holding that when a decision to terminate is challenged, the Appointing Authority has to satisfy that it was on reasonable ground and there were sufficient materials on the record. As the same was found missing, the order was set aside.

51. However, in the case of the petitioner, there was sufficient materials on record to satisfy the Patna High Court which led to the orders in question. Thus, the case of **Anchal Dwivedi vs The State of Bihar (supra)** do not come to the rescue of the petitioner, the same being distinct and different from her case.

52. On the other hand, the case cited by learned counsel for the Patna High Court of Hon'ble Apex Court in the matter of Registrar, High Court of Gujarat and another (supra) fully applies in the present case.

53. The petitioner though joined the post of Civil



Judge in the year 2014, she continuously remained on leave which last totalled to be 1227 days, thus completely affecting the judicial works assigned to her. In the aforesaid circumstances, the Patna High Court was fully justified not to confirm her services which resulted into her discharge from service. Thus, the order will not vitiate in the absence of notice.

54. We do not find any ground to interfere with the orders in question.

55. The writ petition fails and is accordingly dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Jagdish/-

AFR/NAFR	AFR
CAV DATE	16.10.2023
Uploading Date	10.11.2023
Transmission Date	

