

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.905 of 2019
In
Civil Writ Jurisdiction Case No.10485 of 2017

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Mehin Nigar Begum Wife of Mohammad Nizirul Islam Resident of
Village-Haldiwari, Post-Pothia, P.S.-Pthia, Block-Pothia, District-
Kishanganj.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Social Welfare, Government of Bihar, Patna
3. The Director, Integrated Child Development Services, Government of Bihar, Patna
4. The Commissioner, Purnea Division, Purnea,
5. The Joint Commissioner-Cum-Secretary Regional Transport authority, Purnea, Division, Purnea.
6. The District Magistrate, Kishanganj.
7. The District Programme Officer, Kishanganj
8. The Child Development Project Officer, Pothia, Kishanganj.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajey Kumar, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 02-01-2023

In the instant LPA, the appellant has assailed the order of the learned single judge dated 12.07.2019 passed in C.J.W.C. No. 10485 of 2017.

2. The appellant was stated to have been appointed as Anganwadi Sevika in the year 2003. The District Magistrate, Kishanganj had inspected Anganwadi Center on 10.12.2014 and noticed certain alleged irregularities stated to have been committed by the appellant to the extent in not maintaining the attendance register and there were variations in number of children on different dates. Based on such inspection report, District Programme Officer issued show-cause notice and obtained explanation of the appellant and proceeded to remove her from service on 29.12.2014.

3. Perusal of the records, it is evident that even though allegations are serious in nature when the appellant had disputed and filed her explanation, the same has not been considered by the competent authority. At the same time, if there are disputed facts in that event a formal inquiry was warranted including examination of the author of the inspection report in the light of the Apex Court decision in the case of **Roop Singh Negi Vs. Punjab National Bank** reported in (2009) 2 SCC 570.

4. Recently Apex Court in the case of **Esteem Properties Pvt. Ltd. Vs Chetan Kamble** reported in **2022 SCC OnLine SC 246** held that opportunity of hearing is to be afforded to the affected party in respect of administrative or quasi judicial proceedings. The principle laid down in the aforementioned judgment is aptly applicable to the case in hand.

5. In the present case, the appellant is working since the year 2003, even though there were no disciplinary regulation governing the post of Aganwadi Sevika at the same time, if there are serious allegations in such an event a formal inquiry should have been held before passing order of removal from service. The same has not been appreciated by the learned single judge while passing the impugned order on 12.07.2019 in C.J.W.C. No. 10485 of 2017. Accordingly, the present LPA is allowed while setting aside the order dated 12.07.2019 and order of removal from service dated 03.04.2017 read with 29.12.2014.

6. The concerned authority is hereby directed to take back the appellant on duty within a period of two weeks from the date of receipt of this order. Further extend all monetary benefits during the intervening period from 03.04.2017 till date and further continue to pay the salary/consolidated pay from

time to time. Reserving liberty to the concerned authority to initiate inquiry and provide ample opportunity of hearing to the appellant and complete the inquiry proceedings within a period of six months from the date of receipt of the order.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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AFR/NAFR	NAFR
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