

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1884 of 2018

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Soniya Raj Daughter of Navin Singh, Wife of Ashish Priyadarshi, Resident of Village-Ghariyari, P.O.-Mehsi, P.S.-Mehsi, District-East Champaran at Motihari.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Muzaffarpur.
3. The Deputy Development Commissioner, Muzaffarpur.
4. The Block Development Officer, Kudhani, District-Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anish Chandra, Adv.
For the Respondent/s : Mr. Sri Ram Krishna, AC to SC11

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 30-10-2023 Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed directing the respondent for re-employment of the petitioner on the post of Gramin Awash Sahayak, Kudhani, Muzaffarpur and further for grant of maternity leave to her for the period of 14.05.2015 to 14.08.2015 i.e., for three months.

3. Counsel for the petitioner submits that petitioner was appointed /selected on the post of Gramin Awash Sahayak in the Block Office, Kudhani vide appointment letter issued on 31.05.2014 under the signature of Deputy Development Commissioner (DDC), Muzaffarpur.



4. Counsel further submits that the petitioner joined on the said post and worked with full satisfaction with the authorities. Counsel submits that during her service period, petitioner got pregnant and on the medical advise of the doctor, she applied for maternity leave for three months from 14.05.2015 to 14.08.2015 as per the rules and provisions for the female employees. Counsel further submits that she has applied for maternity leave before the Block Development Officer, Kudhani, Muzaffarpur on 15.05.2015, but maternity leave was not allowed, then she has filed an application before the DDC, Muzaffarpur on 23.06.2015 for proper instructions.

5. Counsel further submits that after her pregnancy, the petitioner had submitted an application for her joining before the BDO, Kudhani, but her application was not forwarded to the D.R.D.A. then subsequently, she filed an application before the DDC, Muzaffarpur on 09.03.2016, but the same has not been considered and still pending. Counsel submits that vide Letter No. 27664 dated 28.06.2016, the Rural Development Department, Government of Bihar has allowed the maternity leave and also accepted the joining of other employee, namely, Sarika Bharti (Annexure-6), but discrimination has been made with the petitioner.



6. Counsel further submits that vide Letter No. 270 dated 07.09.2016, the DDC, Muzaffarpur issued guidance for grant of maternity leave for female employees to whom employment has been provided under MGNREGA Scheme.

7. Counsel further submits that gross injustice has been done with the petitioner and in the above facts and circumstances, her maternity leave may be allowed and similarly treatment may be made as like that of other employees about which she has mentioned in the writ petition.

8. Counsel for the State on the other hand submits that the petitioner was a contractual employee and on 10.06.2014, she was appointed for an initial period of 11 months and her employment was only till 09.05.2015. Counsel submits that as per the Rural Development Department's Letter No. 235821 dated 25.06.2015, a contractual employee deputed as Gramin Aawas Sahayak had entitled of 12 days casual leave only. It has been submitted that on 15.05.2015, petitioner filed a petition for maternity leave and proceeded on absence from duty. After 92 days of her absence, she filed an application before BDO, Kurhani that she has come back on duty. According to her, at that time, a Gramin Aawas Sahayak was entitled for 12 days casual leave only, and therefore, the BDO, Kurhani,



Muzaffarpur sought guideline from DDC, Muzaffarpur and a general guideline was issued that Gramin Aawas Sahayak are entitled for 180 days of maternity leave. Counsel further submits that in the meantime, three years and six months have lapsed as the letter of director dated 05.09.2017 has been issued later on.

9. Counsel further submits that as per the order of the District Magistrate, Muzaffarpur dated 06.08.2018, a guidance has been sought from Rural Development Department as to, from which date the contract of the writ petitioner renewed. After reminder to department has been sent for guidance vide Letter No. 3228 dated 28.09.2018 by the Office of DDC, Muzaffarpur. It is the stand of the State that as soon as the guidelines from Rural Development Department shall be received, a proper decision shall be taken on the issue of contract renewal of the petitioner.

10. In this background, it transpires to this Court that it is true that initially a contractual employee was entitled for 12 days of leave, but subsequently, a decision taken that 180 days are permissible to the Gramin Aawas Sahayak as maternity leave, but the said decision has come later.

11. In the light of the submissions made above, it transpires to this Court that in case of One Sarika Bharti, her



maternity leave was allowed as well as her joining was accepted by the respondents. There is no reply on the said pleadings made by the petitioner. As such, it amounts to acceptance by this Court and particularly, in the light of the Bihar State litigation Policy, 2011, it transpires to this Court that petitioner is entitled to consider his case for grant of maternity leave and rejoining. The provision of Clause 4 C(1) of the Bihar State Litigation Policy, 2011 states as follows:-

“A good number of cases are from the category of similar cases. Each Government Department will aim to consider and settle the claim of the representationist/ applicant employee/ citizen, if the claim is found covered by any decision of the Court. Many service matters of this nature, can be disposed of at the level of the Department itself without compelling the litigant to come to the Court. In this manner, the Government Departments would be acting as efficient litigants.”

12. As such, it is directed to the Principal Secretary Rural Development Department, Government of Bihar, Patna to take decision in the matter of present petitioner considering her



entire case as well as the case of Sarika Bharti particularly after filing a fresh representation before him within 2 weeks from today. The Principal Secretary Rural Development Department, Government of Bihar, Patna is also directed to pass a reasoned and speaking order considering Clause 4C(1) of the Bihar State Litigation Policy, 2011 within 6 weeks thereafter.

13. With the aforesaid direction, the present writ application is hereby disposed of.

(Dr. Anshuman, J.)

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