

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5949 of 2019

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Surya Bansh Pal, Son of Motilal @ Motilal Pal Resident of Village-Darihat,
P.S.-Darihat, District- Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Rural Development, Government of Bihar, Patna.
2. The Principal Secretary, Department of Rural Development, Government of Bihar, Patna.
3. The District Magistrate, Rohtas.
4. The Deputy Development Commissioner, District-Rohtas.
5. The Sub-Divisional Officer, Dehri-on-Sone, District-Rohtas.
6. The Block Development Officer, Akodhi Gola, District-Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Mishra, Adv
		Mr. Sunil Kumar Dubey, Adv.
For the State	:	Mr. Sriram Krishna (AC to SC-11)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 30-01-2024

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for setting
aside the order dated 08.01.2019 annexed as Annexure-13
issued under the signature of Secretary, Department of Rural
Development, Government of Bihar, Patna (respondent no.2) as
well as order dated 25.04.2017 annexed as Annexure-10 issued
by the District Magistrate, Rohtas (respondent no.3) by which
the services of the petitioner as *Gramin Awas Sahayak* was
terminated and affirmed.



3. Learned counsel for the petitioner submits that *vide* the said order dated 25.04.2017, the petitioner was terminated without considering the defence of the petitioner properly. Counsel also submits that the petitioner was appointed on the post of *Gramin Awas Sahayak* in Akodhi Gola Anchal, District-Rohtas (Bihar) on contractual basis under the scheme of *Indira Awas* on 01.12.2014. Counsel further submits that on the basis of the said advertisement, he was started working after selection *vide* letter no.741 dated 25.02.2014 annexed as Annexure-2. Counsel submits that the petitioner joined on the said post and started discharging duty of *Indira Awas Sahayak* in Akodhi Gola Block on the payment of Rs. 15,000/- per month.

4. Learned counsel for the petitioner submits that *vide* Memo No. 484 dated 05.03.2016 annexed as Annexure-6, he was dismissed from the service on the basis of complaint followed by explanation filed by him. The petitioner filed representation against his dismissal that violation of natural justice has been made and thereafter, a criminal case was also filed against him bearing Nasriganj P.S. Case No. 36/2016 dated 20.02.2016 annexed as Annexure-8. Counsel further submits that against his order of dismissal, the petitioner preferred appeal and subsequently, preferred writ petition in which *vide* order dated 05.03.2016 in Civil Writ Jurisdiction Case No. 8210



of 2016, the petitioner was directed to appear before the Appellate Authority and his matter was remitted back. The Secretary Department of Rural Development, Government of Bihar, Patna in the light of the observations passed in writ petition has passed final order in which he confirmed the earlier order of dismissal of the petitioner from the post of *Gramin Awas Sahayak* vide order dated 25.04.2017. Counsel also submits that after the said order passed on 08.01.2019 which is under challenge, the order of acquittal dated 17.02.2020 has been passed in the criminal case which is annexed as Annexure-15.

5. Learned counsel for the petitioner further submits that the punishment order may be directed to be reviewed as in the said criminal case, the petitioner has been acquitted. In support of his argument, counsel relied on a judgment of ***Mukti Nath Rai Vs. The Punjab National Bank through the Chairman-cum-Managing Director & Ors.*** reported in **2023(1) PLJR 824**. Counsel relied on the observations made in paragraph no.7 of the said judgment that:-

“under what circumstances acquittal in a criminal case is bearing in a departmental proceedings.”

6. Learned counsel for the State on the other hand



submits that the petitioner is a contractual employee and not a regular employee whereas, the said case on which the petitioner is relying is basically a case of regular employee and case of the petitioner cannot be equated with the said case.

7. In the light of the submissions made, it transpires to this Court that the petitioner has earlier moved before this Hon'ble Court in Civil Writ Jurisdiction Case No. 8210 of 2016 challenging the termination order of the petitioner issued *vide* Memo No. 484 dated 05.03.2016 before the Appellate Authority and the Appellate Authority, namely, Principal Secretary, Department of Rural Development, Government of Bihar, Patna has set aside the order *vide* order dated 02.08.2016 and after allowing the same, the matter was remanded back. After remand, the District Magistrate, Rohtas in Case No. 3/2016 *vide* order dated 25.04.2017 has reiterated the earlier order dated 05.03.2016, thereby the petitioner having been terminated from discharging the duty of *Indira Awas* Assistant and which has been challenged by the petitioner before the Appellate Authority.

8. This Hon'ble Court has directed the Appellate Authority to examine the case of the petitioner and decide the same by a reasoned order in accordance with law within a period of 3 months from the date of receipt/production of a copy of the order. It has also been observed that the Court is not



giving any opinion on the merit of the case. Thereafter, the petitioner has moved before the Appellate Authority and the Appellate Authority *vide* order dated 08.01.2019 passed a reasoned and speaking order. In the said reasoned and speaking order, it has been passed that:-

"कागजातों के अवलोकन एवं दोनों पक्षों को सुनने से स्पष्ट होता है कि इंदिरा आवास योजना के अन्तर्गत लाभ देने हेतु श्री सूर्यवंश पाल द्वारा लाभुक अंजु देवी से 1500/-रु० लिया गया, जिसकी जानकारी प्रशासन को प्राप्त होने पर दूसरे दिन श्री पाल ने वापस कर दिया। इंदिरा आवास योजना अन्तर्गत लाभ देने के लिए लाभुक से पैसे का लेन-देन लोक सेवक के आचरण के विपरीत है। अनुबंध रद्द करने संबंधी आदेश दिनांक 25.07.2017 के अवलोकन से यह भी स्पष्ट होता है कि जिला पदाधिकारी, रोहतास (सासाराम) द्वारा आरोपित श्री पाल को अपना पक्ष रखने हेतु अवसर देते हुए प्रखंड विकास पदाधिकारी, अकोढ़ी गोला की अनुशंसा तथा उप विकास आयुक्त, रोहतास से प्राप्त मंतव्य के आलोक में सुनवाई के पश्चात युक्तियुक्त आदेश पारित किया गया है।

अतः उपरोक्त तथ्यों के आलोक में श्री सूर्यवंश पाल का यह अपील आवेदन अस्वीकृत किया जाता है।

इस आदेश की प्रति सभी संबंधितों को भेजी जाए।"

9. Learned counsel for the petitioner further submits that it is true that after passing the said order, the order of



acquittal dated 17.02.2020 has been passed in which the petitioner has been exonerated from the charge made in the FIR.

10. It transpires from the judgment of *Mukti Nath Rai Vs. The Punjab National Bank through its Chairman-cum-Managing Director & Ors.* reported in *2023(1) PLJR 824*, that the said judgment shall not help the petitioner due to the reason that for the same charge, different delinquents have been punished differently. It was the observation of the Hon’ble Division Bench firstly and then on the ground mentioned in paragraph no.7 of the aforesaid judgment, the Hon’ble Court has dismissed, this case.

11. It transpires to this Court clearly that the petitioner is not the regular employee rather, he is a contractual employee and the principles of regular employee cannot applied in case of the contractual employee.

12. In this view of the matter, this Court is of the opinion that there is no case of the petitioner and hence, this writ petition is hereby dismissed.

(Dr. Anshuman, J.)

Divyansh/-

AFR/NAFR	
CAV DATE	
Uploading Date	02/02/2024
Transmission Date	

