

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.513 of 2021

In
Civil Writ Jurisdiction Case No.1956 of 2020

=====

Rani Kumari Wife of Neeraj Kumar Resident of Village- Barma, P.S.- Gurua,
District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
2. The Director, I.C.D.S., Bihar, Patna.
3. The District Magistrate-cum-Collector Gaya.
4. The District Programme Officer, Gaya.
5. The Child Development Project Officer, Gurua, Gaya.
6. The Lady Supervisor, Gurua, Gaya.
7. Ruby Devi Wife of Bikendra Kumar Resident of Village- Barma, Police Station- Gurua, District- Gaya.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr.Suraj Samdarshi, Advocate Mr.Rohit Singh, Advocate Mr.Abhilasha Jha, Advocate
For the State	:	Mr.Gyan Prakash Ojha (Ga7) Mr.Abhishek Singh, Ac to Ga7
For the Pvt. Respondent	:	Mr.Ajay Kumar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

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

Date : 03-07-2024

Appellant has assailed the order of learned Single Judge dated 23.06.2021 passed in C.W.J.C. No.1956 of 2020. It is a short order of the learned Single Judge, therefore, we re-produce the same and it reads as under:-



“Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.

Considering the reasons assigned in the impugned order, the Court is not inclined to enter into merit of the writ application. The issue does not warrant any interference.

The writ application is, accordingly, dismissed as devoid of merit.”

2. Order of the learned Single Judge is bereft of material and reasoning insofar as dismissing C.W.J.C. No. 1956 of 2020.

3. Learned counsel for the appellant submitted that appellant was selected and appointed to the post of Anganwadi Sevika in Ward No. 6, such a selection is after due advertisement and appointment. It is also submitted that she has worked for about 8 to 9 months. The official respondents abruptly displaced the services of appellant - *Rani Kumari* while accommodating one *Geeta Kumari*. Feeling aggrieved by displacement from the post of Anganwadi Sevika at Ward No. 6 appellant is before this court.

4. Learned counsel for the appellant submitted that appellant - *Rani Kumari* has right to claim over the post of Anganwadi Sevika at Ward No. 6 in view of the fact that her selection and appointment was in accordance with law.

5. *Per contra*, learned counsel for the State resisted the aforementioned arguments and submitted that before selection and appointment of appellant - *Rani Kumari*, one *Geeta Kumari* was



already appointed to the post of Anganwadi Sevika at Ward No.6. While she was working as such, the post of Anganwadi Sevika fell vacant at Ward No.5. Accordingly, *Geeta Kumari* was posted to Ward No.5. When such arrangement of additional charge to the post of Anganwadi Sevika at Ward No.5 was discontinued in the result *Geeta Kumari* has to report back to Ward No.6 to her original post where her lien was existing. Therefore, appellant - *Rani Kumari* has been displaced. It is also submitted that one 7th Respondent - *Ruby Devi* who had alleged to have given a complaint to the extent that appellant - *Rani Kumari* was not resident of Ward No.6. Even this has been taken note of while displacing appellant - *Rani Kumari*.

6. On the other hand, learned counsel for the appellant submitted that issue relating to residence of Ward No. 6 is false claim on behalf of *Ruby Devi* on the other hand *Rani Kumari* is very much resident of Ward No.6.

7. Heard the learned counsels for the respective parties.

8. The official respondents in particularly selecting and appointing authority on the post of Anganwadi Sevika have committed blunder in advertising the post of Anganwadi Sevika for Ward No.6 in the absence of the post being vacant. On the other hand such authorities have failed to take note of the fact that



initially *Geeta Kumari* was appointed to the post of Anganwadi Sevika at Ward No. 6 and on *ad hoc* basis she has been asked to discharge the duties to the post of Anganwadi Sevika at Ward No.5 where the Anganwadi Sevika post was stated to have been vacant. The Selecting and Appointing Authority should not have resorted to advertisement and filling up the post of Anganwadi Sevika at Ward No.6. In particular, appointing the appellant - *Rani Kumari* and she was permitted to continue for about 8 to 9 months. Thereafter, they have realized to the extent that they have committed error in advertising the post of Anganwadi Sevika at Ward No.6 and appointing *Rani Kumari*. The official respondents - Selecting and Appointing Authority have misled the appellant - *Rani Kumari* and others to participate in the process of selection and appointment to the post of Anganwadi Sevika at Ward No.6 in the absence of vacant post available for selection and appointment.

9. Having regard to the fact that *Rani Kumari* and others have been misled and permitting them to participate in the process of selection and appointment to the post of Anganwadi Sevika and the fact that appellant - *Rani Kumari* discharged from the duties of the post of Anganwadi Sevika at Ward No.6 for a period of about 8 to 9 months and she has been ousted abruptly. If the official respondents have not notified the post of Anganwadi



Sevika at Ward No.6, appellant had other chances of employment elsewhere it has been denied to her. In other words, her right has been curtailed for future employment during the period of selection and appointment and discharging the duties of the post of Anganwadi Sevika at Ward No.6.

10. On account of these dates and events appellant is not entitled to reinstatement to Ward No.6 in view of the fact that *Geeta Kumari* was already selected and appointed. Due to administrative error committed by the official respondents, the appellant - *Rani Kumari* was to suffer. Accordingly, appellant - *Rani Kumari* is entitled to compensation of Rs. 2,00,000/- (Rupees Two Lakhs Only). Compensation shall be paid to her within a period of 3 months from the date of receipt of this order. It is also noticed that appellant is before judicial forum for the last about 4 years while spending valuable time and monetarily. Even this is required to be taken note of for the purpose of awarding compensation.

11. The official respondents are permitted to initiate disciplinary proceedings against such of those officials who are all involved insofar as selection and appointment process for the 2nd time, even though post of Anganwadi Sevika at Ward No.6 was not available. The officials who would be subjected to disciplinary



action, they must be provided ample of opportunity of hearing/principle of natural justice.

12. With the above observations, the present L.P.A. No. 513 of 2021 stands disposed of while modifying the order of the learned Single Judge dated 23.06.2021 passed in C.W.J.C. No. 1956 of 2020.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.07.2024
Transmission Date	NA

