

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13854 of 2024

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1. Ranjeet Ranjan Malakar Son of Late Raj Kishore Prasad, Resident of Mohalla Laheria Tola, P.S. Kotwali, District Gaya.
 2. Deepak Kumar Arya, son of Sri Rajendra Prasad, resident of Mohalla Chakand Bazar, P.S. Chakand, District Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary.
2. Secretary, Rural Development Department, Old Secretariat, Patna.
3. Commissioner, Magadh Division, Gaya.
4. Collector, Gaya.
5. Deputy Development Commissioner, Gaya.
6. Additional Collector (Departmental Enquiry), Gaya.
7. Director, District Rural Development Agency, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ram Pravesh Sharma, Advocate Ms. Madhuri Kumari, Advocate
For the Respondent/s	:	Mr. Ajay Behari Sinha, GA-8 Mr. Neeraj Raj, AC to GA-8

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 12-09-2024

Heard Mr. Ram Pravesh Sharma, learned counsel along with Ms. Madhuri Kumari, learned counsel appearing on behalf of the petitioners and Mr. Ajay Behari Sinha, learned GA-8 assisted by Mr. Neeraj Raj, learned AC to GA-8 for the State.

2. The petitioners in paragraph no. 1 of the present writ petition have sought *inter alia* following relief(s), which is reproduced hereinafter:

"1. That this is an application for issuance of an



appropriate writ, order or direction for quashing order issued vide memo no. 745 dated 6.3.2024 terminating service of the petitioner no. 1 and order issued vide memo no. 746 dated 6.3.2024 terminating service of the petitioner no. 2 contained in Annexure-P/18 & P/19 to this application while both the petitioners were working as clerk cum typist on contract basis since November 2011 and also for direction to retain in service and to pay arrear of salary w.e.f. November 2022 with interest."

3. Learned counsel appearing on behalf of the petitioners submitted that the petitioners, who were appointed in the year 2011 as Clerk-cum-Typist on contract basis in District Rural Development Agency, Gaya on monthly emoluments, were served with an Enquiry report contained in Letter No. 26 dated 25.01.2024 to give explanation. In the joint enquiry report, total eight questions were asked from the petitioners and the petitioners had replied to all the questions, which has been brought on record by way of 'Annexure-P/16 to the writ petition'. Learned counsel further submitted that from the very perusal of the questionnaire raised in the joint enquiry report, it would appear that the same don't constitute any misconduct rather, there is specific allegation against the Appointing Authority, who may have been involved in some malpractice, however, the petitioners having continuously serving with full satisfaction to the higher authorities and no complain was ever made against them after having served on the contractual basis, instead of the authority regularizing the petitioners, has



terminated their services without any reason, alleging therein that the services of the petitioners was found unsatisfactory and such termination of an contractual employee cannot be said to be termination simpliciter, which has affected the future employment of the petitioner.

4. *Per contra*, Mr. Ajay Behari Sinha, learned senior counsel appearing on behalf of the State submitted that from the questionnaire and reply of the petitioners, it would appear that the same is in categorical order and the reply of the petitioners was not found satisfactory and it was found that the services of the petitioners was unsatisfactory and the petitioners have been terminated from service in terms and conditions of the contract of appointment contained in Memo No. 7765 dated 16.07.2010, and, as such, orders contained in Memo No. 745 dated 06.03.2024 and Memo No. 746 dated 06.03.2024 calls for no interference.

5. Having considered the rival submissions made on behalf of the parties. From perusal of the orders contained in Memo No. 745 dated 06.03.2024 and Memo No. 746 dated 06.03.2024, I find that the termination of the services of the petitioners cannot be said to be termination simpliciter as a result of termination of the contract rather the remarks contained



in the termination orders that the service of the petitioners were found unsatisfactory can only affect the future employment of the petitioner and require thorough enquiry as contained in Article 311 of the Constitution of India.

6. The Apex Court in case of ***P.L. Dhingra vs. Union of India*** reported in ***AIR 1958 SC 36***, ***Brij Mohan Lal Vs. Union of India*** reported in ***(2012)6 SCC 502***, ***Central Inland Water Transport Corporation Limited Vs. Brojo Nath Ganguly*** reported in ***AIR 1986 SC page 1571*** and several decisions including recent judgment in case of ***Swati Priyadarshini vs. the State of Madhya Pradesh & Ors. (CIVIL APPEAL NO.9758 OF 2024 arising out of SPECIAL LEAVE PETITION (C) NO.11685 OF 2021)*** has held that in case of termination of a contractual employee being simpliciter in nature and the order is non stigmatic, calling for proper enquiry as per the requirement of Article 311 of the Constitution of India.

7. I find that the authority respondent no. 7- Director, District Rural Development Agency, Gaya, may either proceed to delete the insinuating remarks against the petitioners that their services was found unsatisfactory or required to proceed in accordance with law as discussed hereinabove.



8. In the above mentioned facts and circumstances of the case as I have already interfered with the orders contained in Memo No. 745 dated 06.03.2024 and Memo No. 746 dated 06.03.2024, the petitioners must not be denied their due salary for the period from November, 2022 till the order of termination.

9. The petitioners, if so advised, may file their individual detailed representation before the appropriate authority for the other relief as prayed for in the present writ petition to retain them in service even on contract basis.

10. With aforesaid observations/directions, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	18.09.2024
Transmission Date	N/A

