

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17941 of 2024

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Sangeeta Kumari Wife of Mukesh Kumar Pandit, Resident of Mohalla -
Kushwaha Colony, Tarapur, Police Station - Tarapur, District - Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Social Welfare Department,
Government of Bihar, Patna.
2. The Director, I.C.D.S., Patna.
3. The Divisional Commissioner, Munger.
4. The District Magistrate, Munger.
5. The District Programme Officer (Welfare), Munger.
6. The Sub Divisional Officer, Tarapur, Munger.
7. The Block Development Officer, Tarapur, Munger.
8. The Child Development Project Officer, Tarapur, Munger.
9. Rimjhim Kumari, Wife of Sanjay Kumar Sah, Resident of Rajguru, Ward
No. 2, Police Station - Tarapur, District- Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Santosh Kumar Singh, Advocate
For the Respondent/s	:	Mr. Birju Prasad, GP 13
		Mrs. Shweta Anand, AC to GP 13
		Mr. Ajit Anand, AC to GP 13

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 29-11-2024

Heard Mr. Santosh Kumar Singh, learned counsel
appearing on behalf of the petitioner; Mr. Birju Prasad, learned
GP 13 along with Mrs. Shweta Anand and Mr. Ajit Anand,
learned ACs to GP 1 for the State.

2. Petitioner has *inter alia* prayed for following reliefs
in the paragraphs No.1 of the writ petition:-

*“That the present writ petition is being
filed for issuance of writ/writs, direction/directions*



in the nature of certiorari of setting aside the order dated 10.02.2023 passed by the District Magistrate-cum-Collector, Munger in Service Appeal No.09 of 2018-19 by which he had set aside the order dated 28.11.2018 passed by the District Programme Officer, Munger in Complaint Case No.77 of 2018-19 for the selection of Anganwari Sevika at Centre No.52 Ward No.02, Panchayat- Tarapur and directed to issue selection letter in favour of Respondent No.9, and consequential order passed by the Divisional Commissioner, Munger Pramandal, Munger on 09.05.2024 in Revision Case No.16 of 2024 as not maintainable as well as order passed by the Director I.C.D.S., Patna in Appeal No.13 of 2024 on 19.07.2024 by which he had dismissed on the ground of jurisdiction and appoint the petitioner who selected on 03.01.2019 in light of direction of higher authorities.”

3. Learned counsel appearing on behalf of the petitioner submitted that the law laid down by the Apex Court in case of ***State of Karnataka & Ors. vs. Ammerbi & Ors.*** reported in ***(2007) 11 SCC 681*** is not applicable in the case of the petitioner's termination, rather the law laid down recently by the Apex Court in case of **Maniben Maganbhai Bhariya Vs.District Dev. Officer, Dahod & Ors.**, reported in **AIR 2022 (Supreme Court) 2119** is applicable in the case of the petitioner and he has relied on paragraphs no.59, 60, 61 and 62 of the said judgment. In course of hearing, this Court found that the



observation made in paragraphs no.32, 38, 52 and 81 are relevant to decide the issue, as to whether, the issue involved in **Maniben Maganbhai Bhariya (Supra)** squarely covers the case of the petitioner. I now proceed to refer paragraphs no.2, 3 and 5 of the said judgment, wherein the Apex Court formulated question to be decided and the same are reproduced hereinafter:

“2.The moot question which has been raised in the instant appeals for our consideration indeed is a question which may not only determine the rights of the contesting appellants working as Anganwadi workers/helpers who are discharging a pivotal role in the society at the grassroot level and are the role model of the ICDS scheme which is one of the extended arm of the Ministry of Women and Child Development, at the given time, it may also give a thought process to the Legislature to consider as to whether the applicability of gratuity being a social security measure, be extended to the employees who served the establishment in an organized or unorganized sector and, in one way or the other, contributing in the sustainable development of the nation.

3. Looking to the large number of persons working in the organized/unorganized sector by passage of time, different social security legislations have been introduced in this largest democratic country, which can be divided into two broad categories, namely, the contributory and non-contributory. The contributory laws are those which provide for financing of the social security programmes by contributions paid by employees and employers and in some cases supplemented by contributions/grants from the Government. At the same time, we have major non-contributory laws such as the Employee's Compensation Act, 1923, the [Maternity Benefit Act, 1961](#) and the Payment of Gratuity Act, 1972 with which we are presently concerned.

5. Before the enactment of the Payment of Gratuity Act, 1972 (hereinafter referred to as “Act, 1972”), there were two State Laws providing for



payment of gratuity. These were the Kerala Industrial Employees' Payment of Gratuity Act, 1970 and the West Bengal Employees' Payment of Gratuity Act, 1971. The question of having a central legislation on the subject was discussed at length in the Labour Minister's Conference held on many occasions and after general consensus was reached, the Central Legislation was enacted in the form of The Payment of Gratuity Act, 1972, which was brought into force on 16th September, 1972."

4. The issues which were before the Apex Court, related to those Anganwari Sevika and Sahaikaa who were there in service and the Apex Court in their case found that the Payment of Gratuity Act, 1972 equally applies to them and the State Government should consider to given benefit who are regularly discharging their duty as 'Anganwari Sevika and Sahaikaa and in this regard, the Apex Court in paragraph no.51 has held to distinguish the issue involved in ***Ammerbi (Supra)*** which is as follows:-

"51.The judgment of Ameerbi (supra) relied upon by the Division Bench of the High Court and placed by the respondents before this Court is of no assistance and has no application so far as the question raised before us in the instant appeals."

5. In view of the fact that petitioner is aggrieved by the order of termination, I am not inclined to interfere with in any manner in view of the law laid down by the Apex Court in the case of ***Ameerbi (supra)***.



6. The writ petition is accordingly, dismissed.

7. The petitioner, if so desires, may avail appropriate
remedy in accordance with law.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.12.2024
Transmission Date	NA

