

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7951 of 2023

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Sohan Prasad Son of Khenhar Sah Resident of Village-Malkauli, Police Station-Bagaha (Pathkauli), District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Social Welfare Department, Patna, Bihar.
2. The Divisional Commissioner, Muzaffarpur, Tirhut Division, Muzaffarpur.
3. The District Magistrate, Bettiah, West Champaran.
4. The District Programme Officer, Integrated Child Development Skim, Bettiah, West Champaran.
5. The Deputy Collector, Establishment, Bettiah, West Champaran.
6. The Sub-Divisional Magistrate, Bagaha, West Champaran.
7. The Child Development Project Officer, Bagaha, West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anand Kishore Choudhary

For the Respondent/s: Mr. Md. Raisul Haque (SC 10)

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

3 22-01-2025 Heard learned counsel for the petitioner as well as

learned counsel for the respondents.

2. With the consent of both the counsels appearing

for the parties, the matter is heard finally.

3. Facts of the case are that the petitioner is

appointed as Statistical Assistant along with other

candidates on 09.12.2011. He joined his services on

20.06.2012 and was posted at Sikta Block in the office of

C.D.P.O. (Child Development Project Officer). The



appointment of the petitioner was for a period of one year purely on contractual basis. However, his services had been extended till 2020. Thereafter, on the basis of certain allegations against him, an inquiry was conducted and his services have been discontinued/canceled vide impugned order (Annexure-8) dated 19.07.2021. Being aggrieved with the said order, the petitioner preferred service appeal and the same was also dismissed by the Commissioner, Tirhut Division, Muzaffarpur. Hence this writ petition.

4. The only argument advanced by the counsel for the petitioner is that though the petitioner was appointed on contractual basis for a period of one year, however, in light of a letter No. 3445 dated 09.09.2020 i.e. Annexure-2 issued by the Social Welfare Department, the petitioner and other contract employees are to be continued till they attained the age of 60 years, therefore, without conducting any proper departmental inquiry, the services of the petitioner ought not to have been terminated/canceled.

5. Learned counsel for the respondents opposes the argument advanced by the counsel for the petitioner and referring to Clause II of paragraph No.1 of letter No. 3445 dated 09.09.2020 i.e. Annexure-2 submitted that on the



ground of indiscipline and unsatisfactory service, the services of the contractual employees can be terminated/canceled even before attainment of 60 years. In this case also invoking the said provision and after giving proper opportunity of hearing to the petitioner, the impugned order has been passed.

6. Heard both the counsels appearing for the parties and perused the documents annexed with the petition.

7. At this juncture, it would be appropriate to reproduce the relevant clause of letter No. 3445 dated 09.02.2020 i.e. Annexure-2 which read thus;

“1. संविदा कर्मियों को सेवानिवृत्ति की आयु तक अथवा योजना अवधि, जो भी पहले ही, कार्य करने के संबंध में :-

(i) इस विभाग के अधीन कार्यरत आई०सी०डी०एस० निदेशालय, राज्य स्तरीय / जिला स्तरीय बाल संरक्षण एकक, राज्य आयुक्त निःशक्तता कार्यालय एवं सक्षम के अधीन संविदा पर नियोजित एवं कार्यरत कर्मियों का नियोजन पूरी तरह अस्थायी है तथा योजना अवधि की समाप्ति अथवा 60 वर्ष आयु जो भी पहले लागू हो, तक के लिए है। फलतः संविदा कर्मियों का प्रत्येक वर्ष संविदा अवधि विस्तार किये जाने की आवश्यकता नहीं होगी।

(ii) अस्वस्थता या अनुशासनिक आधार पर अथवा सेवा असंतोषजनक होने के कारण योजना अवधि अथवा 60 वर्ष की आयु जो पहले हो, के पूर्व भी नियुक्ति प्राधिकार द्वारा सेवा समाप्त की जा सकती है।

(iii) संविदा नियोजन की अन्य शर्तें नियोजन के समय निर्गत नियोजन पत्र / एकरारनामा में अंकित यथावत रहेगी।”

8. A careful perusal of sub-clause (i) shows that in normal course, the services of the contractual can be terminated after attaining the age of 60 years or completion



of the period of project, whichever is earlier. The Sub-Clause (ii) is exception clause which shows that in case of medical unfitness, indiscipline or unsatisfactory service, the services can be terminated even before the completion of project or 60 years, whichever is earlier.

9. Perusal of the impugned order shows that invoking the Clause-(ii) of letter No. 3445 dated 09.09.2020, the impugned order has been passed. The impugned order further shows that proper opportunity of hearing was given to the petitioner though he was contractual employee and it was found proved that he was involved in irregularities and also involved in the matter of corruption. I do not find any irregularity or perversity in the impugned order passed by the respondents. Accordingly, the petition is liable to be and is hereby dismissed having no merit.

(Arvind Singh Chandel , J)

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