

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.2634 of 2019**

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Manju Devi @ Manju Kumari, W/o Shri Nageshwar Rai, Resident of Village-  
Manikpur Mushaharnia, P.S. Parihar, Dist.-Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna
3. The Director, Integrated Child Development Scheme (ICDS), Bihar, Patna
4. The District Magistrate, Sitamarhi
5. The District Programme Officer, Sitamarhi
6. The Child Development Project Officer, Parihar, Dist.-Sitamarhi

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Vinod Kumar, Advocate

For the Respondent/s : Mr. S. K. Mandal, SC- 3

Mr. Arjun Prasad, AC to SC- 3

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**

**ORAL JUDGMENT**

**Date : 24-02-2025**

Heard Mr. Vinod Kumar, learned Advocate for the  
petitioner and Mr. Arjun Prasad, learned Advocate for the State.

2. The petitioner is aggrieved with the order dated  
16.04.2015 passed by the Deputy Director, Welfare, Tirhut  
Division, Muzaffarpur in Service Appeal No. 90 /12-13 whereby  
the order of termination of the petitioner from the post of  
Aanganbari Sevika by the District Programme Officer, under the  
memo no. 520 dated 23.06.2012, stands affirmed; the order of



termination, aforementioned, is also impugned herein.

3. While assailing the impugned orders, learned Advocate for the petitioner has put forth the short facts of the case; the petitioner was duly selected on the post of Aanganwari Sevika in Ward No. 6, Centre No.51, pursuant to the letter issued by the Child Development Project Officer, Parihar, Sitamarhi (hereinafter referred to as 'the CDPO') under Memo No. 88, dated 01.12.2004. While the petitioner had been discharging her duty to the entire satisfaction of the authority concerned, on 15.05.2012 an inspection of the Anganwari centre was conducted by the concerned CDPO, but the petitioner was found absent from duty and the Take Home Ration (in brief 'THR') had not been distributed to the beneficiaries, leading to issuance of the show-cause notice. The petitioner submitted her reply to show-cause notice, but the same did not find any favour, resulting into termination of the services of the petitioner. The petitioner also preferred Service Appeal No. 90/12-13 before the Deputy Director, Welfare, Tirhut Division, Muzaffarpur, but the same also came to be rejected vide Memo No. 306 dated 16.04.2015.

4. Aggrieved, the petitioner preferred C.W.J.C. No. 13867 of 2015, however, without any instruction of the



petitioner, the writ petition came to be withdrawn; which order was put to challenge in L.P.A.No. 1545 of 2017. The learned Division Bench of this Court, however, disposed of the Letters Patent Appeal with a liberty to the appellant-writ petitioner herein to avail the forum available to her, hence the present writ petition.

5. Learned Advocate for the petitioner referring to the averments made in the writ petition has contended that on 15.05.2012, on account of a sudden unbearable pain in her abdomen, the petitioner left the Anganwari Centre and rushed to the hospital where she had undergone treatment and medicines were prescribed. To support this contention medical prescription and the certificate issued by the treating doctor have also been placed on record as Annexure-2. This fact was placed before all the authority concerned, as also through the reply to the show-cause, but they did not find any favour and dispensed with the services only on account of one day absence from the centre without any information.

6. Referring to the Guidelines issued under the signature of Director, Integrated Child Development Services Scheme (hereinafter referred to as 'the ICDS'), Department of Social Welfare, Government of Bihar, it is further contended



that there is a specific prescription in paragraph no. 9 thereof that Anganwari Sevika/Sahaika, who remained absent for a fortnight or more and/or centre is found close more than a fortnight, in such circumstances show-cause to be issued and after proper consideration of the show-cause reply, if the same does not find any merit, the order of termination may be passed.

7. It is the admitted position that the petitioner was remained absent for a single day that too on account of ailment, which required immediate treatment. Notwithstanding the aforesaid fact, the respondent authorities terminated the services of the petitioner by ignoring the guidelines issued by the Director, ICDS. In no circumstances, absence of one day of the petitioner from Anganwari Centre may lead to termination, which is highly harsh and unjustifiable; moreover the impugned order does not discuss the explanation submitted by the petitioner.

8. On the other hand, learned Advocate for the State referring to the impugned order submitted that absence of the petitioner at the time of distribution of Take Home Ration (THR) clearly shows the dereliction of the duty of the petitioner and thus the termination of the petitioner from the post of Anganwari Sevika, which was duly affirmed in the Service



Appeal by the Director, ICDS is in terms with the guidelines. Moreover, the guidelines has no statutory force and the petitioner has been given ample opportunity of hearing before passing the impugned order of termination.

9. This Court has heard the learned Advocate for the respective parties and also perused the materials available on record, including the impugned orders as well as the guidelines issued under the signature of Director, ICDS. The facts are admitted that in course of inspection of the Anganwari Centre by the Child Development Project Officer, the petitioner was found absent and the THR was not distributed amongst the beneficiaries. In reply to the show-cause, the petitioner has submitted her explanation along with Medical prescription and the certificate, but the same has not been taken into account, rather it is only opined by the authorities that it is nothing, but a defence of the petitioner; notwithstanding any enquiry regarding genuineness of the Medical prescription and the certificate of the doctor.

10. This Court also finds substance in the submission of the learned Advocate for the petitioner that an Anganwari Sevika/Sahaika shall be subjected to disciplinary action, inter alia, on the ground of her services being not



satisfactory and found indulged in any irregularity and/or remained absent for more than fifteen days or found involve in criminal case, but in the case in hand, the petitioner has been visited with the extreme penalty of termination only on account of absence of one day. All the more, there is justifiable explanation supported by substantive materials, which cannot be brushed aside in such a casual and cavalier manner.

11. It is well settled that an action of termination has a serious consequences on the livelihood of the incumbent and would amount to violation of the rights enshrined under Article 21 of the Constitution, if the same is illegal and unsustainable.

12. The identical issue relating to termination of Anganwari Sevika on account of absence of 2-3 days came up for consideration before the learned Division Bench of this Court in the case of **Phul Kumari Vs. The State of Bihar**, reported in **2019 (1) PLJR 1** wherein the Court affirmed the order of the learned Single Judge, who has been pleased to set aside the order of termination by holding as follows:

*9. Be that as it may, considering the fact that the original writ petitioner remained absent due to sickness/illness for which necessary certificate/document was submitted and having found that the order*



*dismissing her from the post of Anganwari Sevika for remaining absent for one/three days to be too harsh and as such there was a justification found for remaining absent, as such, the learned Single Judge rightly quashed and set aside the order dismissing her from the post of Anganwardi Sevika. Even for not displaying the board, such a harsh and extreme penalty of dismissal was not warranted in view of the fact that the original writ petitioner served as an Anganwari Sevika for more than two decades.*

*10. In view of the above, as such we see no reason to interfere with the impugned judgment and order passed by the learned Single Judge allowing the writ petition and quashing and setting aside the order dismissing the original writ petitioner from the post of Anganwari Sevika. At the outset, it is required to be noted that so far as the authority who passed the order of dismissal has not challenged the impugned judgment and order and it is the appellant, original Respondent No. 7, who was appointed in place of the original writ petitioner, has challenged the impugned judgment and order passed by the learned Single Judge.*

*11. Now, so far as the direction issued by the learned Single Judge against setting aside the appointment of original Respondent No. 7 is concerned, at the outset*



*it is required to be noted that as such the same is a consequence of allowing the writ petition and quashing and setting aside the order dismissing the original writ petitioner as an Anganwari Sevika. Once her dismissal order is being set aside, in that case, she has to be reinstated and when the appellant, original Respondent No. 7, was appointed in place of original writ petitioner, the necessary consequences shall follow.”*

13. It would also be worth benefiting to encapsulate the relevant paragraphs of a decision rendered by this Court in the case of **Punam Kumari Vs. The State of Bihar**, reported in **2011 (3) PLJR 140** wherein a Bench of this Court has set aside the order of termination by holding it too severe and harsh, which was inflicted on account of absence for one day. Paragraph nos. 8 and 9 whereof are reproduced hereinbelow:

*“8. The Court therefore opines that the respondent authorities have been insensitive as show above and they have taken a hyper-technical view in terminating the service of the petitioner and that too for absence of the petitioner for one day. The punishment of termination therefore is not only harsh and excessive but also arbitrary per se and violative of Article 14 of the Constitution of India.*

*9. The writ application is*



*allowed. The order of termination contained in Annexure-2 dt. 14.08.2009 passed by the District Programme Officer as well as the order in appeal contained in Annexure-11 passed by the District Magistrate are quashed. The petitioner would be allowed to rejoin and carry her responsibility. Petitioner is also well advised to seriously discharge her duty and responsibility.”*

14. For the discussions made hereinabove and the position in law, this Court finds that the punishment of termination inflicted on the petitioner is too severe and harsh, not commensurate to the allegation of one day absence, coupled with the fact, the impugned orders failed to discuss the grounds taken by the petitioner, supported by the Medical prescription and the certificate of the doctor, apart from not in conformity with the guidelines noted above. Accordingly, this Court is left with no option, but to set aside the impugned orders passed by the District Programme Officer under memo no. 520 dated 23.06.2012, as also the order dated 16.04.2015, passed by the Deputy Director, Welfare, Tirhut Division, Muzaffarpur in Service Appeal No. 90 /12-13.

15. As a result of quashing of the impugned orders, this Court directs the respondents to reinstate the petitioner forthwith along with admissible consequential benefits.



16. The writ petition stands allowed.

(Harish Kumar, J)

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 27.02.2025 |
| Transmission Date | NA         |

