

(2016) 11 PAT CK 0003

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 7213 of 2015

Ranju Kumari

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 19-11-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 2 PLJR 405

Hon'ble Judges : Mr. Jyoti Saran, J.

Bench : Single Bench

Advocate : Mr. Pramod Mishra, Advocate, for the Petitioner; Mr. Sanjay Kumar Ojha, AC to GP-7, for the Respondent

Final Decision : Allowed

Judgement

Mr. Jyoti Saran, J. (Oral)—Heard Mr. Pramod Mishra, learned counsel appearing for the petitioner and Mr. Sanjay Kumar Ojha, learned Assisting Counsel to Government Pleader No.7 for the State.

2. The petitioner held the post of Anganwari Sevika, Centre No.235 at Village-Amaha Latraha in the district of Supaul and her services were terminated under the order of the District Programme Officer, Supaul bearing Memo No.1476 dated 8.10.2012, a copy of which is present at Annexure-4 to the writ petition. The order of the District Programme Officer has been affirmed by the Appellate Authority i.e. the Deputy Director, Welfare, Koshi Division a, Saharsa by his order passed on 21.1.2015 in Anganwari Appeal Case No.56-122 of 2012 impugned at Annexure.5.

3. Mr. Mishra, learned counsel appearing for the petitioner has submitted that for a single day absence from the centre that the extreme penalty of dismissal has been passed. He refers to the enquiry report present at Annexure-2 which reported that the centre was found closed on 23.3.2012 and which led to issuance of a show cause notice by the District Programme Officer vide

Annexure-3 and despite the cause shown, the services of the petitioner have been terminated by the orders impugned.

4. Learned counsel has referred to a Bench decision of this Court reported in 2011(3) PLJR 140 (Punam Kumari v. The State of Bihar) to submit that termination for a single day absence has found to be extremely harsh. He further submits that no third party rights have been created inasmuch as no appointment has been made in the meanwhile.

5. Mr. Ojha, learned counsel appearing for the State while contesting the argument has submitted that the explanation given by the petitioner in support of her absence, was found to be forged.

6. Having heard learned counsel for the parties and considering the circumstances in which the services of the petitioner have been terminated for a single day absence, in my opinion, the District Programme Officer ought to have been more pragmatic and in absence of accompanying circumstances reflecting continued breach by the petitioner in running the centre, a mere single day absence is not found sufficient enough for imposition of extreme penalty of dismissal, The opinion expressed by this Court is supported in the case of Punam Kumari (supra).

7. In result the order of termination bearing Memo No.1476 dated 8.10.2012 and the appellate order dated 21.1.2015 passed in Anganwari Appeal Case No.56-122/2012 cannot be upheld and are accordingly quashed and set aside.

8. The writ petition is allowed. The petitioner stands restored on her post.