

(2023) 12 PAT CK 0028

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 6783 Of 2022

Renu Kumari

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 12-12-2023

Acts Referred:

Constitution Of India, 1950 — Article 311, 311(2)

Citation : (2023) 12 PAT CK 0028

Hon'ble Judges : Mohit Kumar Shah, J

Bench : Single Bench

Advocate : Shivnandan Sah, Kumari Amrita

Final Decision : Disposed Of

Judgement

1. The present writ petition has been filed seeking the following relief:-

"(1)(i) For issuance of writ in the nature of certiorari for direction directing the Respondent Authorities for setting aside the order dated 22.02.2022 passed by Koshi Divisional Commissioner, Saharsa and consequently order dated 02.08.2021 Passed by District Program Officer, Madhepura whereby and whereunder selection of private respondent no.8 has been illegally held to be valid."

2. At this juncture, this Court would refer to a judgment rendered by a co-ordinate Bench of this Court in the case of Seema Kumari vs. The State of Bihar and others, reported in (2015) SCC Online Pat 7267, paragraphs no. 9 to 11 whereof, are reproduced herein below:-

"9. As noted above, the Anganbari Sevika is not a government servant and has no protection under Article 311(2) of the Constitution of India so as to envisage the concept of regular departmental proceeding. The petitioner was given a notice. She was informed about the allegation against her. She had filed her show-cause reply which was considered by the District Programme officer and when the order went against her, she had also been given adequate opportunity

by the appellate authority who, in fact, had himself got the matter verified by referring the matter to the Bihar Sanskrit Board.

10. In that view of the matter, this Court would not find any error in the impugned order of termination of the services of the petitioner when it is found that the petitioner had got appointment by producing a document in support of qualification which was found to be incorrect/forged.

11. Thus for the reasons indicated above, this application must fail and is, accordingly, dismissed."

3. It would be apt to refer to yet another judgment rendered by the learned Division Bench of this Court in the case of Neetu Kumari v. The State of Bihar and others, reported in 2011 (4) PLJR 20, paragraphs no. 4 and 5 whereof are reproduced herein below:-

"4. In our considered view, the post of Anganbari Sevika is not a post having security of tenure or protection under Article 311 of Constitution of India. Considering the very nature of engagement which provides of honorarium, we are of the view that in case the appellant still feels aggrieved, she may approach the Civil Court for damages. There is nothing at stake in such a scheme other than honorarium. For such contractual engagements the relief of reinstatement is not appropriate and even if there is breach of the scheme or any other principle of law, the claim should ordinarily be permitted, if found good on merits, only for damages.

5. The appeal is dismissed."

4. Considering the law laid down by the learned Division Bench of this Court, as aforesaid, the learned counsel for the petitioner seeks not to press the present writ petition, however, seeks liberty on behalf of the petitioner to avail such other alternative remedies as are otherwise available under the law. Liberty, so sought, is granted.

5. The writ petition stands disposed off as not pressed.