

(2023) 08 PAT CK 0071

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.22552 Of 2014

Shushila Devi

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 24-08-2023

Acts Referred:

Constitution Of India, 1950 — Article 311

Citation : (2023) 08 PAT CK 0071

Hon'ble Judges : Mohit Kumar Shah, J

Bench : Single Bench

Advocate : Gopal Prasad Roy, Jai Shankar Barnwal

Final Decision : Dismissed

Judgement

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

"1. That this is an application for issuance of an appropriate Writ/ order/ direction, commanding the respondents to restore the services of petitioner as Angan Bari Sevika at Child Development Programme, Kahalgaon after setting aside the order dated 14.12.96 by which she has been terminated from the Office and also to pay her remuneration for the year 1994 to 1996 which has been withheld by the authorities without any rhyme and reason."

2. At this juncture, this Court would refer to a judgment rendered by the learned Division Bench of this Court in the case of Babita Kumari v. The State of Bihar and others, reported in 2016 SCC Online Pat 9434, paragraphs no. 7 and 8 whereof are reproduced herein below:-

"7. Having considered the rival contentions, we do not find any merit in the present appeal. The charges against the appellant were very clear as would be apparent from the show cause dated 22.02.2012, which was issued in light of the findings in the enquiry report as well as the relevant documents/registers which were required to be maintained at the Centre. Reply given by the appellant, copy of which has been brought on record, does not indicate any justification and

rather it has been stated that on 24.09.2011 at the time of Inspection, the children were still coming and on 07.10.2011, she herself had gone to call the children and during that time the inspection was held. It was further stated by the appellant that on 30.09.2011 she had become ill due to being drenched by rain. We find that such explanation is vague and evasive and does not inspire confidence. The spirit and object of running Anganbadi Centres cannot be overemphasized and the purpose is to ensure the welfare of children from the lowermost and deprived strata of society. Any lapse in execution of the said scheme has to be taken very seriously. Closure of even one day entails the beneficiaries going without their meals, which cannot be overlooked. Thus, we do not find any infirmity in the decision of the authorities cancelling her selection as well as the procedure adopted by them prior to passing such order.

8. For the reasons aforesaid, the Letters Patent Appeal, being devoid of merit, stands 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. 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 dismissed as not pressed.