

(2020) 02 PAT CK 0386

In the Patna High Court

Case No : Letters Patent Appeal No. 1555 Of 2018, Civil Writ Jurisdiction Case
No. 13562 Of 2017

Sunita Kumari

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 28-02-2020

Acts Referred:

Limitation Act, 1963 — Section 5
Constitution Of India, 1950 — Article 311

Citation : (2020) 02 PAT CK 0386

Hon'ble Judges : Hemant Kumar Srivastava, J;Rajendra Kumar Mishra, J

Bench : Division Bench

Advocate : Vinay Mistry, Gyan Prakash Ojha

Final Decision : Dismissed

Judgement

Heard learned counsel appearing for appellant as well as learned counsel appearing for State on I.A. No. 8281 of 2018, which has been filed under Section 5 of the Limitation Act for condonation of delay of 29 days in filing this appeal as well as on the point of admission.

The delay in filing this appeal is condoned on the grounds mentioned in I.A. No. 8281 of 2018.

The petitioner - appellant was appointed as Aganwari Supervisor on 3.8.2011 on contract basis for the period of one year but before completion of one year period, she was terminated from service. She challenged her termination order before Commissioner, Magadh Division, Gaya, who set aside her termination order and remitted the matter to concerned Collector for a fresh consideration, thereafter, concerned Collector sent the matter to Additional Collector, who having inquired the matter gave clean cheat to the petitioner-appellant. The petitioner - appellant after getting clearance from Additional Collector approached the concerned Minister, who sent the matter to Collector and, thereafter, Collector again authorised Additional Collector to make proper inquiry

in accordance with Rules. Thereafter, Additional Collector having made inquiry found the petitioner - appellant guilty and, accordingly, she was terminated from service.

The petitioner - appellant approached the writ court against her termination order by filing C.W.J.C. No. 13562/2017, which was dismissed by learned Single Judge vide order dated 25.8.2018 on two counts. First, the period of contract of the petitioner had already elapsed and, secondly, the petitioner- appellant was not entitled to get benefit of Article 311 of the Constitution of India.

Learned counsel appearing for writ petitioner - appellant submits that, admittedly, the Additional Collector found the petitioner - appellant innocent and gave clean cheat to her but again when the matter was remitted, the Additional Collector held the petitioner - appellant guilty without giving any opportunity of hearing to her and, therefore, the aforesaid fact, clearly, goes to show that there was violation of natural justice. He, further, submits that the Hon'ble Apex Court has held in several decisions that the court can interfere into any matter, if there is violation of natural justice.

On the other hand, learned counsel appearing for State refuted the above stated submissions submitting that the learned Single Judge rightly noticed that the period of contract of petitioner - appellant had already been elapsed and on the aforesaid ground, the learned Single Judge dismissed the writ petition of the appellant.

Having heard the above stated contentions of the parties, we went through the record. We find substance in the contentions of learned counsel appearing appearing for State. Admittedly, the petitioner - appellant was appointed on contract basis only for one year and before filing C.W.J.C. No. 13562/2017, her period of contract had already elapsed, therefore, in our view also the learned Single Judge rightly dismissed the writ petition of the petitioner - appellant.

On the basis of aforesaid discussions, we do not find any ground to interfere into the impugned judgment dated 25.8.2018 passed by learned Single Judge in C.W.J.C. No. 13562 of 2017 and, accordingly, this L.P.A. stands dismissed on admission stage itself.

However, it is made clear that this order as well as order of learned Single Judge shall not come in future prospect of the petitioner-appellant.