

(2015) 07 PAT CK 0005

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 3925 of 2015

Sunita Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 07-07-2015

Acts Referred:

Citation : (2015) 07 PAT CK 0005

Hon'ble Judges : Ajay Kumar Tripathi, J

Bench : Single Bench

Advocate : Shiva Shankar Sharma, for the Appellant; Jai Shankar Barnwal, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Ajay Kumar Tripathi, J.

1. Petitioner, an Aaganbari Sevika, has been removed/disengaged from her responsibility of Centre No. 95, Jalley North in the district of Darbhanga.
2. The impugned orders are dated 18.11.2011 (Annexure-5), which is the order passed by the District Programme Officer and the other order dated 6.1.2015/28.1.2015 passed by the Deputy Director, Welfare, Darbhanga Division, Darbhanga, the appellate authority. The punishment of disengagement was upheld by the Deputy Director, Welfare as well.
3. Petitioner was selected and engaged as an Aaganbari Sevika, which is not a permanent appointment under the State but a contractual engagement on a fixed remuneration. It is an important duty which is cast upon such persons, who have to run the centers established for malnourished children and expectant mothers.
4. Selection of the petitioner was made in the year 2004. An inspection was made on 7.9.2011 and it was found that there were many irregularities committed in the manner in which the center was being run. A show cause was

demanded vide Annexure- 1, dated 7.9.2011. Explanation was offered, which was, as usual, denial. Not finding the explanation of the denial in face of what emerged during the course of inspection, the District Programme Officer decided to disengage the petitioner vide Annexure- 5, dated 18.11.2011. The appeal of the petitioner was considered and rejected vide Annexure- 6 by the Deputy Director.

5. Submission of the counsel for the petitioner is that in terms of the guidelines issued by the Director, ICDS when such decisions of removal are taken, such orders are required to be communicated to the Director, ICDS. In the present case, it has not been done. The counsel's stand is that such omission is serious, therefore, vitiates not only the order of the District Programme Officer but even the appellate authority.

6. The Court has gone through the direction. It is not one of those guidelines where an approval has to be taken by the Director before the order in question could be put into force. Such communications are more with the object of informing the headquarters of the development in the fields so that appropriate remedial measures can be taken due to the vacuum created on removal of an Aaganbari Sevika. Petitioner cannot latch on such a guidelines to overcome the rigours of her culpability which is evident from reading of the order passed by the District Programme Officer and has been dealt with in more detail by the appellate authority in its order contained in Annexure- 6.

7. Learned counsel representing the State has filed a detailed counter affidavit. It reiterates the irregularities committed by the petitioner which emerged during the inspection. It is also argued that this programme is also being monitored by the Hon''ble Apex Court, which has issued guidelines from time to time and strict monitoring is being done to ensure that the object and purpose of running such centers are not defeated.

8. The facts being what they are and the evidence surely does not enthruse this Court to rescue the petitioner from the problem in which she is in by virtue of her disengagement for the reason that such a situation was allowed to happen because of the obvious indiscretion of the petitioner. Besides, adequate opportunity was given to the petitioner, which also satisfies requirement of natural justice. Since petitioner is not a government servant, her case cannot be pegged any higher because some of the submissions virtually amounted to the safeguards which a permanent government servant has under various service rules or CCA Rules.

Writ application, therefore, is dismissed being devoid of merit.