

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1584 of 2019

In
Civil Writ Jurisdiction Case No.16256 of 2015

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Mamta Devi Wife of Jai Narayan Mishra, Resident of village- Koirgawan,
P.S. Shikarpur, District- West Champaran.

... .. Appellant.

Versus

1. The State of Bihar through the District Magistrate, Bettiah, West Champaran.
2. The C.D.P.O., Narkatiyaganj District- West Champaran.
3. The District Programme Officer, Bettiah West Champaran.
4. The Commissioner, Tirhut Commissionary at Muzaffarpur.

... .. Respondents.

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Appearance :

For the Appellant : Mr. Ajay Kumar Singh No.1, Advocate.
For the State : Mr. Prashant Pratap, GP-2.
Mr. Asit Kumar Jha, AC to GP-2.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 04-09-2025

The appellant has assailed the order of the learned Single Judge dated 16.10.2019 passed in C.W.J.C. No.16256 of 2015.

2. The appellant while working as a Anganwari Sevika in Anganwari Centre No.281 under Narkatiyaganj, the Superior Officer is stated to have inspected the Centre on 19.10.2012 and he had found the appellant remained absent for about three days. Resultantly, show cause notice was issued and obtained reply



and, thereafter, proceeded to terminate her services on 24.05.2013. It was the subject matter of Appeal before the Appellate Authority and it was rejected on 23.07.2015. Hence, C.W.J.C. No.16256 of 2015 was filed.

3. The learned Single Judge vide order dated 16.10.2019 has affirmed the order of termination and Appellate Authority's order dated 24.05.2013 and 23.07.2015, respectively. Hence, the present L.P.A. No.1584 of 2019.

4. Perusal of the records, it is evident that for remaining three days unauthorized absence by the appellant, the respondents have taken stringent action of termination from service. It is to be noted that there is no holding of a domestic inquiry. Termination is a major penalty. Therefore, the concerned authority should have resorted to holding of a domestic inquiry. It is to be noted that for remaining unauthorized absence for a period of three days, imposition of penalty of termination is highly disproportionate. The appellant's life is at stake and her livelihood has been taken for merely absenting for a period of three days. The same has not been taken note of by the Appellate Authority as well as by the learned Single Judge.

5. In the light of these facts and circumstances, the



appellant has made out a case so as to interfere with the Appellate Authority's order dated 23.07.2015.

6. It is to be noted that the appellant has not assailed the order of termination dated 24.05.2013. The same cannot be taken note of for the reasons that whatever the order passed by the Appellate Authority in affirming the order of termination, in such an event, order of termination merges with the Appellate Authority's order. Therefore, the appellant need not assail the termination order.

7. In the light of these facts and circumstances, the appellant has made out a case so as to interfere with the impugned orders of termination dated 24.05.2013, Appellate Authority's order dated 23.07.2015 and the order of the learned Single Judge dated 16.10.2019 passed in C.W.J.C. No.16256 of 2015 and they are set aside.

8. The concerned authority is hereby directed to take back the appellant into service within a period of three months from the date of receipt of this order. It is made clear that the appellant is entitled to only 50% of the back wages from the date of termination viz., 24.05.2013 to till reinstatement. The same shall be calculated and disbursed in favour of the appellant within a period of three months from the date of receipt of this



order. In the event of the concerned authority making an alternative arrangement in selection and appointment to the post of Angwanwari Sevika for the aforementioned Centre, in that event, such incumbent shall be accommodated else where or in the alternative whether her selection and appointment was a conditional order or not to the extent that her selection and appointment is subject to outcome of Appeal No.22 of 2013, C.W.J.C. No.16256 of 2015 or L.P.A. No.1584 of 2019. If such condition is imposed, in that event, incumbent need not be accommodated or if the Appointing Authority feels that there would be hardship for the incumbent, in that event, Appointing Authority shall accommodate her in any other Centre.

9. With the above observation(s), the present L.P.A. No.1584 of 2019 stands allowed.

(P. B. Bajanthri, ACJ)

(Alok Kumar Sinha, J)

P.S./-

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CAV DATE	NA
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