

**In The Court of Commissioner, Saran Division, Chapra
Anganbari Appeal No. 314/2012
Shiv Kumari Devi
Vrs.
The State of Bihar & Ors.**

ORDER

The instant revision petition is directed against the impugned order passed by District Magistrate, Siwan on 16.10.2012 in Misc. Appeal Case No. 112/2012-13.

The brief fact of the case is that the present petitioner Shiv Kumari Devi W/o Anil Kumar Roy R/o Village- Barka Teghra P.S. – Maharajganj, Dist- Siwan was an Anganbari Sevika at Centre No. 61 situated in the same village. Further case is that the petitioner's centre was inspected by CDPO, Mahrajganj on 02.06.2012 at 10.45 AM and on finding that some irregularities are being committed in running the centre, she recommended to DPO, Siwan for the termination of Services of both Sevika and Sahayika of that centre. Thereafter, the DPO, Siwan vide memo No. 1015 dated 18.06.2012 issued show cause notice to the petitioner. The petitioner filed her show cause reply on 26.06.2012 stating therein that due to her sudden illness, she left the centre and went to PHC, Mahrajganj for her treatment. However, the DPO, Siwan on not being satisfied with the said show cause reply, terminated the petitioner's service vide memo No. 1169 dated 18.07.2012. Feeling aggrieved by the said termination order, the petitioner filed an appeal vide Misc. Appeal case No. 112/2012-13 before D.M. Siwan and the said Appeal was also dismissed vide order dated 16.10.2012.

On being aggrieved by and dissatisfied with the aforesaid order of D.M. Siwan, the petitioner preferred this revision case before this court.

Heard the parties.

The learned counsel for the petitioner submitted that the impugned order is against the law and facts of the case. He further submitted that the impugned order of termination has been passed without applying the judicial mind and even the petitioner was not granted any opportunity of hearing. The learned counsel argued that although, the petitioner had filed her show cause reply wherein she stated that she opened the centre on 2.06.2012 but all of a sudden she fell ill and left the centre and went to PHC, Mahrajganj for her treatment. She also furnished the Doctor's prescription of PHC, from whom she got treated. He further argued that the petitioner when went for her treatment she had directed the Sahayika to manage the centre and she also tried to inform this to concerned CDPO telephonically but due to some reason the phone could not get connected.



2.

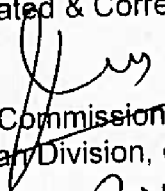
The learned counsel while assailing the impugned order further, argued that the impugned order, is arbitrary in view of the facts that although, the petitioner explained the real facts for her sudden absence, but the same was not considered by the appellate authority. The learned counsel lastly prayed that the impugned order be set aside and petitioner be allowed to resume her duty.

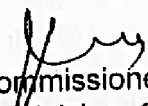
The learned G.P., appearing on behalf of the D.M. Siwan submitted that the impugned order is reasoned and cogent having no infirmity or illegality hence the same may be upheld.

Considering the facts and circumstances of the case and material available on record and the submissions made by the learned counsel for the parties, it appears that the petitioner's service has been terminated mainly on the charge of alleged misconduct in running the centre and her absence on the day of inspection by CDPO. However, the show cause reply filed by the petitioner shows that she explained the whole facts relating to her absence and she also filed the doctor's prescription in support of that, but neither the DPO nor the D.M. acting as appellate authority considered the same. Thus, it appears that the authorities concerned relied heavily on the alleged charges as reported by CDPO instead of considering the facts mentioned in the show cause reply filed by the appellant with an open mind. The learned D.M. acting as appellate authority also ignoring factual position and circumstances of the case relied heavily on surmises as he mentioned in his order that the said doctor's prescription is a procured document and after thought action which has no validity and the other points raised by the petitioner in her defence have also been termed as imaginary and concocted. In fact, the learned D.M. should have considered the factual aspect of the case in its true perspective so as to arrive at a correct and just decision.

For the reasons aforesaid and discussion made therein, the impugned order of D.M. is not sustainable; hence the same is set aside. In the results, this revision is allowed.

Dictated & Corrected by me.


Commissioner,
Saran Division, Chapra
24/4/2014


Commissioner,
Saran Division, Chapra
24/4/2014