

**In The Court of Commissioner, Saran Division, Chapra
Anganbari Appeal No. 42/2013
Bachhi Devi**

Vrs.

Sushila Kumari & Ors.

ORDER

The instant appeal is directed against the impugned order passed by District Magistrate, Siwan in Misc. Appeal Case No. 27/2011-12 (Sushila Kumari Vrs. The State of Bihar & Ors.) on 07.12.2012

The brief facts of the case are that the present appellant Bachhi Devi W/o Jawahar Lal Gupta R/o Village- Barkagaon, Panchyat-Survala, Block- Pachrukhi, Dist- Siwan was selected as Anganbari Sevika for Barkagaon Centre as per the selection letter dated 05.01.2004 issued by CDPO, Pachrukhi. After that she along with other newly selected Anganbari Sevikas of the Pachrukhi block was ordered to undergo training and after obtaining training she started to discharge her duties on the said Anganbari Centre and continued to work there till December 2004 but was not paid any remuneration. The further Case is that then all of a sudden she was verbally restrained from discharging her duties by CDPO, Pachrukhi in January 2005. However, in the meantime on 05.10.2004, the present respondent Sushila Devi was selected as Anganbari Sevika for the same Centre. On being aggrieved by the said sudden development leading to termination of her appointment she approached the Hon'ble High Court by filing a writ case bearing CWJC No. 2262/2005. This writ petition was disposed of on 29.06.2006 with direction to the D.M. Siwan to examine the matter afresh and pass order in accordance with law. Thereafter, the present appellant again allowed to resume her duty as Anganbari Sevika as per direction of CDPO, Pachrukhi vide letter No. 68 dated 19.04.2007 and accordingly she assumed charge of the said Anganbari centre on 20.04.2007. At this time the present respondent No.6 approached the Hon'ble High Court vide CWJC No. 10862/2007 seeking relief and this writ was disposed of with a direction to D.M., Siwan to examine the legality of the order dated 19.04.2007 passed by CDPO, Pachrukhi. This led to filing of a representation before D.M., Siwan by the present respondent No. 6 which led to initiation of a case in the court of learned D.M.Siwan bearing Misc. Appeal No. 27/2011-12 and the said appeal was allowed by order dated 7.12.2012 by D.M., Siwan with a direction to the CDPO. Pachrukhi to start taking work of Anganbari Sevika with immediate effect from Sushila Kumari, the petitioner in Misc.Appeal No.27/2011-12

On being aggrieved by and dissatisfied from the aforesaid order of D.M., Siwan dated 07.12.2012, the present appellant has preferred this appeal before this court.



Heard the parties.

The learned Counsel appearing on behalf of the petitioner at the outset submitted in details as to how this petitioner was selected as Anganbari Sevika for the first time for the said Aganbari centre, allowed to undergo training and on completion of training she was allowed to discharge the duty of Anganbari Sevika and how she was later on restrained from working as Aganbari Sevika by the verbal order of CDPO Pachrukhi. He further stated that her service as Anganbari Sevika was restored on the order of Hon'ble High Court and since then she has been working. He also pointed out that the learned D.M., Siwan failed to consider that this petitioner's was re-instated by the order of Hon'ble High Court but the learned D.M. without perusing the documents filed by the petitioner at the time of hearing passed the impugned order. He further argued that in CWJC No. 10862/2007, the present respondent No. 5 CDPO, Pachrukhi had filed counter affidavit wherein she stated that Sushila Kumari is not the bride of that village, nor divorced lady in fact she is the daughter of that village and her selection was made without holding any Aam Sabha meeting and she was allowed to work their only after termination of the service of the present petitioner. Thus the impugned order passed by collector, Siwan is not proper and fit to be set aside.

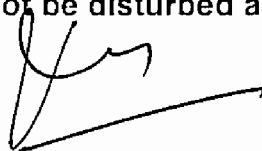
The learned counsel appearing on behalf of the Respondent No. 6, Sushila Devi on the ^{hand} submitted that the impugned order has been passed by D.M., Siwan as per the order and instruction of the Hon'ble High Court so there is no scope of any interference and this appeal is liable to be dismissed. He further stated that as the appointment of Bachhi Devi and others for the post of Anganbari Sevika in the Pachrukhi block was found illegal by the authority Concerned, the joint Secretary of Welfare Department, Govt. Of Bihar Patna. Vide letter No. 3630 dated 30.07.2004 directed the CDPO Pachrukhi to cancel the said appointments and also to make fresh appointments. After this the respondent No. 6 was appointed as Anganbari Sevika for the said centre as she fulfilled all the norms of the guidelines to be selected as Anganbari Sevika. He further pointed out that although , Bachhi Devi moved before Hon'ble High Court by filling CWJC No. 2262/2005 against her termination but she concealed the real fact as to why she was terminated and the respondent No. 6 was not even made party in that case. Thus it is obvious that she tried to place her case before the Hon'ble High Court by suppressing the material facts relating to her cause of her termination. He also said that Bachhi Devi is not the resident of the village Barkagaon and she belongs to Backward Community whereas Sushila Devi is from same village being a divorced lady and belongs to S.C. Category , therefore



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her selection was as per rule. The D.M. Siwan has passed the impugned order considering in detail all the factual position as per the direction of the Hon'ble High Court so there is no scope of any interference in the said order in any way and this O.P. No. 6 has already joined her duties as such she must be allowed to continue on that centre.

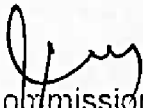
Considering the facts and circumstances of the case, material on records, claims and counter claims raised by the learned counsel for the parties and on going through the orders and directions as contained in the orders passed by the Hon'ble High Court in different writ cases filed by both contenders seeking redressal of their grievances, it is seen that the appointment on the post of Anganbari Sevika for the Barkagaon Centre of Pachrukhi block of Siwan was highly controversial from the very beginning. It appears that initially one Bachhi Devi was appointed and allowed to discharge her duties after obtaining training but was not paid any remuneration and suddenly she was removed. Meanwhile, one Sushila Kumari was appointed as Anganbari Sevika for the said Centre but after some time she was also removed and again Bachhi Devi was re-instated. All these action of termination and re-appointment have been done as per the direction of Hon'ble High Court as being claimed by the learned counsel for the parties. But the matter did not subside here and non-of the Contenders are satisfied till date. The present petitioner approached this court challenging the order dated 07.12.2012 of D.M. by which the respondent No. 6 was allowed to work as Anganbari Sevika. Although, the Hon'ble High Court while disposing of the writ cases filed by both parties concentrated itself on remanding the matter back to the authority concerned with certain observations which was based mainly on the facts placed during arguments, relief sought for by concealing the real facts of the case for their maximum advantage. And by interpreting those orders passed in writ cases the concerned authorities decided the fate of the parties on different occasions either by removing them from the job or reappointing them from the job. The last order of Hon'ble High Court passed in CWJC No. 10862/2007 on 17.05.2011 in which the petitioner was the present O.P. No. 6. Sushila Kumari had sought some relief with the plea that she was removed wrongly by the concerned authorities. It is ~~is~~ also seen that when the whole issue came before the D.M Siwan, he decided the same keeping in view the directions contained in the said order dt.17.5.2011. The directions/observations contained in the operative portion of the said order which reads as "----- That being so the appointment of the petitioner can not be questioned. The cancellation of the petitioner's appointment thus can not be sustained. The impugned orders are thus, set aside. The petitioner if they are already working will not be disturbed and if any one of




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them has been removed she would be re-instated provided the post is available." Thus it is seen that the learned D.M. has rightly decided the case in favour of respondent No. 6 as she has been allowed to be re-instated as Anganbari sevika in view of the order passed by the Honble High Court in CWJC No.10862 of 2007 on 17.05.2011. Therefore, I do not find any illegality in the said order of D.M. which is impugned here and accordingly the same is upheld and in turn this appeal is dismissed.

Dictated & Corrected by me.


Commissioner,
Saran Division, Chapra
~~20/3/14~~


Commissioner,
Saran Division, Chapra
~~20/3/14~~