

In The Court of Commissioner, Saran Division, Chapra

Anganbari Appeal No. 37/2015

Banita Kumari

Vrs.

State of Bihar.

ORDER

09.04.2016 - The instant appeal petition is directed against the impugned order passed by District Magistrate, Saran, as contained in Memo No. 145/program dated 27.01.2015 whereby and whereunder, appellant was relieved of her contract to work as Lady Supervisor.

The brief facts of the case are that the appellant Banita Kumari W/o Sanjay Kumar R/o Village- Rajawali, P.S.- Baniyapur, Dist- Saran was engaged as Lady Supervisor on contract basis on 01.06.2012 pursuant to her selection against the advertisement No. 11647 dated 17.01.2012 and subsequently she was posted at Chapra Sadar but later on transferred to Mashrak vide office order No. 1033 dated 17.10.2014. However, she was again posted at Chapra Sadar vide Memo No. 1155 dated 24.11.2014 on consideration of her request that her transfer be stopped as she had to look after her ailing mother. After her reporting at Chapra Sadar she was allotted Part- 5 (Ward No. 39-44) for inspection and supervision work as per order contained in Memo No 368 dated 28.11.2014. Thereafter, it was reported by the CDPO, Chapra Sadar to DPO, Saran vide letter No. 389 dated 08.12.2014 that Smt. Banita Kumari was making request to be allotted to look after her earlier allotted- part- 1 (ward No.- 1-10) and she had also refused to receive the said letter relating to change in her work. This led to issuance of a show cause to the appellant vide Memo No. 95 dated 17.01.2015 DPO, Saran and in response to said show cause notice the appellant submitted her reply on 22.01.2015 stating that the letter No. 368 dated 28.11.2014 relating to change in her working area was not served to her. Thereafter, comment was sought for by DPO, Saran from CDPO, Chapra Sadar, over the said show cause reply of the appellant and the CDPO in turn, sent her comment vide letter No. 80 dated 27.01.2015 mentioning therein that despite repeated request, the appellant had refused to discharge the work of part- v, rather she used to work at part- 1 in her own convenience resulting in hampering of inspection and supervision work of Anganbari Kendras of part- v. This led to coming up of the whole matter before D.M., Saran who on finding that non-discharging of work of the allotted area is reflection of the insubordination and misconduct of the appellant, he exercising the power conferred by ICDS deptt's letter No. 1846 dated 10.06.2010 finally relieved the appellant of her contractual engagement from the post of Lady Supervisor and the said order was communicated to all concerned vide Memo No. 145/program dated 27.01.2015.

On being aggrieved by and dissatisfied with the aforesaid order, the appellant has preferred the instant appeal petition before this court.

Heard the learned counsel for the parties.

The learned senior counsel appearing on behalf of the appellant at the very outset of his argument submitted that this is a classic case where the authority concerned passing the impugned order has flouted the settled norms and procedure. He further assailed the impugned order by saying that the appellant was not even served with a show cause notice before passing the impugned order of termination of her engagement thereby making complete violation of principle of nature of justice. The learned counsel further submitted that the order passed by the learned D.M. Saran is neither a speaking order nor a reasoned order as nothing has been discussed nor any reasons have been assigned for rejecting the explanation given by the delinquent in her show



cause reply to the DPO. He further submitted that in the instant case the rules and guidelines have been not followed at all before passing the impugned order and in support of his contention he also referred to various reported judgments. He lastly submitted that as no opportunity was afforded to the appellant by D.M. Saran to place her case properly before him as such the impugned order becomes arbitrary, illegal and misconceived so such order is fit to be set aside.

The learned G.P. appearing on behalf of D.M. Saran, instead of forwarding oral argument, requested for granting time to file his written statement. The learned G.P. in his written statements discussed in details about the whole course of circumstances leading to issuance of the impugned order and also expressed the view that the said impugned order is just, proper, legal and valid having no requirement of any interference. He further stated that disobedience and indisciplined behaviour of the appellant resulting in non-supervision of different centre. He also expressed the view that as the appellant was engaged on contract basis there was no need of serving any second show cause notice to her prior to annulling the contract.

Considering the facts and circumstances of the case, material available on records, pleading advanced by the learned counsel for the parties, it is seen that the contractual engagement has been disengaged for alleged charged of not complying with the said transfer order and not assuming the charge of her new allocated areas thereby causing non-supervisions of the Aanganbari kendras for three months. The only contention of the appellant is that she had not been informed of her changed allocation of area of work but this plea seems to be highly unfounded in view of the fact that the overall incharge of an area, comprising of different parts, the CDPO, reported otherwise that despite repeated requests at her level to the appellant to discharge the duty of re-allocated area, she kept on working at her old allocated area. Obviously, this action of the appellant reflects her attitude and her way of working. The other important point raised by learned counsel is that no show cause notice has been issued by D.M. Saran before passing the impugned order. This plea is also not acceptable in view of the fact that earlier show cause notice was issued by the DPO, Saran and the appellant had responded the same by filing her replies thereto. Thus, it appears that there was no need of any further show cause notice from D.M. for the said charges for which an earlier notice was issued by DPO, I also do not find any justification in the claim that the appellant should have been served with second show cause notice regarding proposed action against her because the appellant can not enjoy the benefit which is given to regular appointees in Govt. service.

For the aforesaid reasons, the impugned order is upheld and accordingly, this appeal petition is dismissed.

Dictated and Corrected by me.

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Commissioner,
Saran Division, Chapra

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Commissioner,
Saran Division, Chapra