

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (S) No. 34 of 2023

Smt. Sheela Devi, aged about 52 years, W/o Budhan Yadav, Resident of Village Bhandra, P.O. & P.S. Bhandra, District Lohardaga

... ... **Petitioner**

Versus

1. The State of Jharkhand
2. Secretary, Department of Social Welfare & Child Development, Government of Jharkhand, having its office at Project Bhawan, P.O. & P.S. Dhurwa, District Ranchi
3. Director, Social Welfare & Child Development, having its office at Project Bhawan, P.O. & P.S. Dhurwa, District Ranchi
4. District Social Welfare Officer, Lohardaga, P.O. & P.S. & District Lohardaga
5. Child Development Project Officer, Bhandra, P.O. & P.S. Bhandra, District Lohardaga

... ... **Respondents**

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Petitioner : Mr. Rajesh Kumar, Advocate

For the Respondents : Mr. Shashank Saurav, Advocate

05/5th February 2024

1. The learned counsel for the parties are present.
2. This writ petition has been filed for the following reliefs: -

“1) That the petitioner by way of instant petition, prays for issuance of mandamus directing and commanding upon the respondents to pay her honorarium for the period between 22.09.2017 to 13.10.2019 during which her selection for the post of Anganbari Sevika remained under termination till the issuance of memo No. 461 dated 14.10.2019 issued under the Child Development Project Officer, Bhandra in compliance of directions of the Hon'ble Court dated 02.07.2019 passed in W.P. (S) No. 7416/2017.

For issuance of such other writ(s), rule(s), direction(s), order(s) as your Lordships may deem fit and proper under the facts and circumstances of the instant case.”

3. The learned counsel for the petitioner has submitted that the petitioner was working as Anganbari Sewika and vide Memo No. 193 dated 22.09.2017, the selection of the petitioner was set-aside and she was directed to hand over the charge of Anganbari Centre to the Sahayika. He submits that a writ petition was filed before this Court being W.P. (S) No. 7416 of 2017 and vide order dated 02.07.2019 the order itself was held to be without jurisdiction and was

held to be not sustainable in the eyes of law. He submits that a direction was issued by this Court to reinstate the petitioner from the date of passing of the order restraining the petitioner from discharging the duties. However, liberty was reserved with the respondents to initiate a fresh proceeding against the petitioner after following due procedure of law and after giving ample opportunity of hearing to the petitioner. The learned counsel submits that thereafter order contained in memo No. 461 dated 14.10.2019 was issued enabling the petitioner to join her duty immediately but the petitioner has not paid the salary for the intervening period she remained out of employment i.e. from 22.09.2017 to 13.10.2019 and consequently, the present writ petition has been filed.

4. The learned counsel submits that nothing has been placed on record as to whether a fresh proceeding was initiated against the petitioner according to the order passed by this Court in W.P. (S) No. 7416 of 2017 and the present writ petition is confined to the honorarium of the petitioner during the intervening period.

5. The learned counsel for the respondents has submitted that though no counter-affidavit has been filed in the present case but there was no direction issued by the writ Court to pay salary for the intervening period and the writ Court's order has been complied in letters and spirit by allowing the petitioner to join the post under the order passed by the writ Court. The fact remains that during the intervening period, the petitioner did not perform any duty.

6. After hearing the learned counsel for the parties and considering the facts and circumstances of this case, this Court finds that the earlier order contained in Memo No. 193 dated 22.09.2017 was set-aside by this Court and the findings of the learned writ Court are under: -

“Be that as it may having gone through the rival submissions of the parties, this Court is of the considered view that as the order itself was without jurisdiction, it is not sustainable in the eyes of law.

As a cumulative effect of the aforesaid rules and guidelines, I hereby quash the order as contained in memo No.193 dated 22.09.2017 (Annexure2). As a result of quashment of order, I direct the respondents to reinstate the petitioner from the date of passing of the order restraining the petitioner from discharging her duties. However, it is open for the respondents to initiate a fresh proceeding against the petitioner after following the due procedures of law and after giving her ample opportunity of hearing pass an appropriate order in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

It is made clear that the petitioner shall participate in proceeding and co-operate with the respondents.

With the aforesaid observations, this writ petition stands disposed of."

7. This Court finds that though the order dated 22.09.2017 was set-aside but no consequential relief was granted to the petitioner regarding payment of honorarium for the intervening period from 22.09.2017 to 13.10.2019. The petitioner has also not stated in the writ petition as to whether any fresh proceeding was initiated against the petitioner or not pursuant to the order dated 02.07.2019 passed in W.P. (S) No. 7416 of 2017. The fact remains that during the intervening period from 22.09.2017 to 13.10.2019, the petitioner did not perform any duty.

8. Given the aforesaid facts and circumstances, this Court is not inclined to direct the respondents under Article 226 of the Constitution of India to pay the honorarium to the petitioner for the intervening period from 22.09.2017 to 13.10.2019. Accordingly, the present writ petition is dismissed.

9. Pending I.A., if any, is closed.

(Anubha Rawat Choudhary, J.)

Mukul