

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10995 of 2008

=====

Jagannath Yadav s/o Late Bhubneshwar Yadav, resident of Mohalla- Indrapuri, P.
S. Pathiputra Colony, District Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Old Secretariat, Patna
3. The Deputy Director General of Police (Human Rights), Office of the DGP, Old Secretariat, Patna
4. The Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Suraj Narayan Yadav

For the Respondent/s : Mr. Sunil Kumar Mandal, SC 24

Mr Arjun Prasad, AC to SC 24

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 21-09-2015

Annexure- 21 is the speaking order passed by the DIG of Police (Human Rights), Government of Bihar. This order has been passed on the direction of this Court issued in CWJC No.12688 of 2000.

The short facts are that the petitioner was working as an Assistant in the police headquarters. He became an accused in RC Case NO.25, 26, 27 and 29 of 1986, instituted by CBI. He was taken in judicial custody on 5.8.1996 and released on 20.9.1996. Petitioner was transferred from police headquarters to CID vide order dated 16.8.1996. After his release from judicial custody, he gave his joining to the police headquarters on 23.9.1996. The joining report



was sent to CID but it is the case of the respondents emerging from the impugned order that he never joined CID nor did he show up at the police headquarters till he finally came to be posted back again in the police headquarters on 14.1.1999. The issue is payment of salary between 15.10.1996 to 13.1.1999, which has been refused, because petitioner had not rendered service at his place of posting or worked in any other capacity at any other place including the police headquarters.

Counsel for the petitioner on the basis of Annexure- 7 and 8 tries to paint a picture that even though the Personnel and Administrative Reforms Department revoked the suspension of the petitioner on 17.4.1997 and treated his absence from 21.9.1996 to 22.9.1996 i.e. two days as extraordinary leave, the follow up order was issued by the police headquarter only on 23.1.1999. It was the inaction on the part of the respondent authorities that the petitioner was left in limbo. He was further not relieved from the police headquarters, therefore, he could not join the CID also and he cannot be punished by not payment of salary for the period.

From a reading of Annexure- 21 coupled with the counter affidavit filed on behalf of the respondents, it is evident that the petitioner is trying to juggle with facts on the basis of Annexures 7 and 8. By Annexure-7, the Department of Personnel and



Administrative Reforms had already revoked the suspension of the petitioner. It was the manipulation which was done by the petitioner to get himself posted back at the police headquarters and his refusal to join the CID is the period for which the respondents have refused to grant any salary.

The chain of dates indicates that it was a deliberate action on behalf of the petitioner not to move to the transferred post in the CID. His submission that he was not relieved is also belied by the fact that his joining at headquarters was sent to the CID as would be evident from paragraph 7 of the counter affidavit filed on behalf of respondents 2 and 3.

Surprisingly, the petitioner all along claims lack of knowledge, inputs and passing of any decisive order in his favour as the reason for his absence but the day on which his posting at the headquarters was notified, he decides to join the headquarters on that very day. Obviously therefore, the explanation offered by him for non- performance of duty or joining between 15.10.1996 to 13.1.1999 is attributable to the petitioner. It is a deliberate and conscious effort not to perform any duty under the State during this period which culminated into passing of the impugned order refusing him salary in question.

There is no infirmity with the decision in the given facts

and the conduct of the petitioner. If a government employee does not perform any duty for a long period of time looking for a favourable posting then he cannot be rewarded by payment of salary for not performing any official duty during the period for which refusal has been ordered in terms of Annexure- 21.

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

sk

U			
---	--	--	--