

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9321 of 2014

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1. Ekramul Hasan, Son of Late Ibnul Hasan, Resident of Mohalla- Kashipur, P.O.- P.S. AND District- Samastipur, presently residing at- New Beauty Manjil, Azad Nagar, Ward no. 19, Araria, P.O.-P.S. AND District- Araria

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna
3. The Joint Secretary, Public Health Engineering Department, Government of Bihar, Patna
4. The Deputy Secretary, Public Health Engineering Department, Government of Bihar, Patna
5. The Under Secretary, Public Health Engineering Department, Government of Bihar, Patna
6. The Chief Engineer, Public Health Engineering Department (Civil), Government of Bihar, Patna
7. The Superintending Engineer, Public Health Engineering Department, Purnea Circle, Purnea
8. The Executive Engineer, Public Health Division, Araria
9. The Jila Parishad, Araria through its Chairman
10. The Chairman, Jila Parishad, Araria
11. The Grievance Redressal Committee of the Public Health Engineering Department, Government of Bihar, Patna through its Chairman
12. The Chairman, the Grievance Redressal Committee-cum- Principal Secretary, Department of Public Health Engineering Department, Government of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Pandey No-5
For the State : Mr. GA1- S.K. Sharma
Ms Shalini Kant, AC to GA 1
For Zila Parishad : Mr Dinesh Maharaj

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 23-03-2015

What has happened has happened. The same cannot be undone now. There was contribution of the petitioner also in creating certain amount of confusion and chaos with regard to place

of posting and the cadre where he was required to serve after the tentative allocation of his cadre to the State of Jharkhand initially.

From perusal of the detailed materials, which have been brought on record, it cannot be a matter of dispute that for one reason or the other including anticipation of some kind of favourable order to be passed by the High Court in the writ application of the petitioner moved earlier in the year 2004, petitioner did hang on in the department of PHED at Araria and was also given additional responsibility to look after work of Zila Parishad at Araria.

Another significant aspect is that finally the petitioner has been allocated Bihar cadre and has been allowed to continue. The writ application of the petitioner was disposed of in terms of Annexure- 14 dated 11.11.2005 in which a status quo order was also passed giving a direction upon the respondent State authorities to consider his claim and representation for transfer of cadre back to Bihar. Therefore, the real issue and dispute with regard to non-payment of salary should be confined from October 2004 to 11.11.2005.

It is another issue that the respondent authorities especially of the State of Bihar did not take any decision on such dispute leading to filing of the present writ application as well as non- payment of salary to the petitioner all along.

Taking into consideration that the petitioner despite issuance of Annexure- 11 did continue in Bihar at Araria even from October 2004 onwards, there is an obligation upon the office of PHED at Araria to pay salary to the petitioner for the period from October 2004 till 11.11.2005. A decision in this regard must be taken within a period of three months.

Once such a decision is taken it is also hoped and expected that further period of salary shall not remain a matter of dispute because the petitioner now is in the State of Bihar and continues to serve under the State of Bihar. All this period must, therefore, accrue in favour of the petitioner and so shall the salary. All this must be done within a period of three months from the date of production of a copy of this order, if necessary, by taking due approval by the highest authority in the Department.

Writ is disposed of with above direction.

(Ajay Kumar Tripathi, J)

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