

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1058 of 2013

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1. The Union of India Through Secretary Cum D.G., Govt. of India, Ministry of Communication & I.T. Department Of Post, Dak Bhawan, Sansad Marg, New Delhi
 2. The Chief Postmaster General, Bihar Circle, Patna
 3. The Assistant Director (Staff & Recruitment) O/O The Chief Postmaster General, Bihar Circle, Patna
 4. The Postmaster General Northern Region, Muzaffarpur
 5. Shri S.P. Mandal, Asrm Darbhanga, R.M.S. Transferred As Superintendent Of Post Offices, Darbhanga Division, Darbhanga Through The Chief Postmaster General, Bihar, Patna

.... Petitioner/s

Versus

Satya Narain Singh S/O Late Anandi Singh Resident Of Village- Dighi Kala (West)
P.O.- Hajipur, District- Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Verma

For the Respondent/s : M/s Jayant Kumar Karn Hemant Kumar Karn

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE GOPAL PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 27-01-2015

The respondent herein was working as Superintendent of Post Offices at Darbhanga since July 2010. Through order dated 26.8.2011, he was transferred to Muzaffarpur. Challenging the order of transfer the respondent filed O.A.No. 634 of 2011 in the Patna Bench of the Central Administrative Tribunal. An order of interim stay was passed on 30.8.2011. However, he was not permitted to remain at Darbhanga on the ground that the incumbent who was transferred to that place has joined on 29.8.2011.

The O.A. was disposed of on 20th January 2012 taking

note of the fact that the representation dated 26.8.2011 made by the respondent herein shall be considered.

The respondent filed CCPA No. 38 of 2011 complaining that despite the order dated 30.8.2011 in O.A. No.634 of 2011 he was not permitted to work at Darbhanga and salary was not paid to him. The Tribunal disposed of the O.A. and dropped CCPA No. 38 of 2011. Further direction was issued to the effect that the respondent shall be paid salary for the period till he joined duty at Muzaffarpur. This writ petition is filed by the Union of India for assailing the order passed by the Tribunal, particularly the direction for payment of salary.

Heard Mr. Rajesh Kumar Verma, learned counsel for the petitioners and Mr. Jayant Kumar Karn, learned counsel for the respondent.

The O.A. was filed challenging the order of transfer. Ultimately, the respondent was reconciled to the order of transfer and joined duty, may be three months after the institution of the O.A. The controversy in the O.A. as well as in CCPA No. 38 of 2011 remains to be one as to the entitlement of the respondent to receive emoluments for the period during which he was out of duty. The Tribunal no doubt passed an order dated 30th August, 2011 granting stay. However, that virtually became redundant since an incumbent, in place of the respondent joined duty on 29th August, 2011 itself. The direction as regards payment of salary for the period during which the respondent was not on duty, is difficult to be implemented. The reason is that once an officer was paid salary for the post of Superintendent of Post Offices at Darbhanga, another set of salary cannot be drawn from that very office. Added to that, salary cannot be drawn from Muzaffarpur since the respondent did not report to duty. In this scenario, the

direction issued by the Tribunal cannot be implemented. However, though the respondent cannot be entitled to be paid salary for the period during which he was out of duty, there cannot be any break in service or penal consequences against him, referable to that period. The respondent shall be treated as on leave during that period.

With this clarification, we dispose of the writ petition.

There shall be no order as to costs.

Interlocutory Application, if any, shall stand disposed of.

(L. Narasimha Reddy,CJ)

(Gopal Prasad, J)

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