

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Review No.341 of 2013**

**IN**

**Civil Writ Jurisdiction Case No. 5298 of 2011**

- =====
1. The State of Bihar
  2. The State of Bihar through the Principal Secretary, Health Department, Govt. of Bihar, Patna.
  3. The Director in Chief, Health Services, New Secretariat, Bailey Road, Patna.
  4. The Regional Director, Health Services, Saran Division at Chapra.
  5. The Civil Surgeon-cum-CMO, Saran at Chapra. .... Petitioner/s

Versus

Chandraket Narayan Singh son of late Ram Sakal Singh, resident of village-Bishun Para, PO-Jalalpur, PS-Chapra Mufassil, District-Saran at Chapra at present resides at Shakti Nagar, PS-Chapra Muffasil, District-Saran.

.... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Madhukar Krishna Sinha, SC-1

Mr. A.N. Pandey, AC to SC-1

For the Respondent/s : Mr. Suresh Pd. Singh No. 1

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**

**ORAL JUDGMENT**

**Date: 30-11-2015**

Heard learned counsel for the appellants and  
learned counsel for the respondent.

In the present case, the State of Bihar and others  
have filed the present application for review of the order dated  
18.09.2012 passed in CWJC No. 5298 of 2011 there only the  
Court has said that if the reversion is set aside and lesser salary  
is paid for the period in question, the claim for difference of  
salary is an automatic consequence. It will be relevant to quote  
relevant portion of the order which is as follows:-

“Counsel for the State submits that the  
earlier orders of the Court were not concerned



with arrears of salary but on the issue of reversion. The Court is completely at a loss to appreciate the stand of the respondents. If the reversion was set aside and lesser salary had been paid for the period in question, the claim for difference of salary is an automatic consequence. It has already been noticed that the respondents have failed to assist the Court in timely dispensation of justice. The petitioner has made a claim for interest also. The Principal Secretary, Department of Health, is directed to examine that if the order of reversion has been set aside restoring his status as Clerk, the appeal against the same has been dismissed, there has to be valid justification in law for denial of arrears of difference of salary as payable to a Clerk.

The Court is further satisfied to order in the facts of the case that the Principal Secretary shall also hold an enquiry with regard to the reasons for non compliance, fix responsibility, hear the concerned and pay interest at the bank rate to the petitioner from the salary of the concerned. In no event shall the State bear the burden of interest attributable to the lapses of its

officials who failed to perform their duties in time. The order to be complied with preferably within a maximum period of two months from the date of receipt and/or presentation of a copy of this order."

Counsel for the State has submitted, the petitioner-respondent was transferred from Chapra to Madhaudha, but even after the direction of the Civil surgeon, he had not joined at Madhaudha and, vide letter dated 22.10.2007, it has been mentioned that if the respondent does not join and report at the newly place of posting, he will be treated to have been automatically relieved on the relevant date and this Court has passed the order of status quo on 20<sup>th</sup> December 2007 meaning thereby he was automatically relieved from the post on 28<sup>th</sup> October 2007, so much so, he did not bother to join the new place of posting. He had not worked during the period in question any where and as such, the question of payment of arrear of salary does not arise whereas the counsel for the respondent submits that the order of transfer was brought to notice of the Deputy Director, Health Services Division Chapra who stayed the order of Civil Surgeon, vide its letter no. 742 dated 27<sup>th</sup> October 2007 and as such, the question to join at the newly place of posting, does not arise.

Having considered the rival contentions of the

parties, it appears that the order of Civil Surgeon was stayed by Regional Deputy Director, Chapra, expectation of the Civil Surgeon that the respondent should join at the new place of posting is completely a misplaced view. When the order of Civil Surgeon was stayed by Regional Deputy Director, Chapra, the question to join at the new place of posting does not arise, so much so, he has not pointed out any error in the order passed by this Court in the writ proceeding.

In such view of the matter, this Court does not find any error apparent on the face of record to review the order passed in CWJC No. 5298 of 2011. Accordingly, the present civil review application is dismissed.

**(Shivaji Pandey, J)**

Mahesh/-

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