

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 733 of 2011

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Yogendra Dubey son of Late Ram Lal Dubey resident of Mohalla Vivek Vihar, Road No. 4, Hanuman Nagar, P.S. Patrakar Nagar, Town and Dist. Patna.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Deptt., Govt. of Bihar, Patna.
3. Commissioner cum Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
4. The Deputy Secretary, Revenue and Land Reforms Department , Govt. of Bihar, Patna.
5. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Raghunath Singh

For the Respondent/s : AC to SC-15

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

6. 02-12-2015 Heard learned counsel for the petitioner and learned A.C. to Standing Counsel – 15.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for directing the respondents to pay all monetary benefit to him for the period of his waiting for posting from 24-02-1997 to 19-02-1999.

The petitioner has claimed that he was promoted, vide **Annexure – 2** to the writ petition as Assistant Settlement Officer (Revenue) and after the issuance of **Annexure – 2**, on the same date, he gave joining.



In the writ petition, a specific stand has been taken that after the notification dated 24-02-1997 as Assistant Settlement Officer (Revenue), the petitioner joined as Assistant Settlement Officer (Revenue) on 24-02-1997 itself, however; his posting was delayed unnecessarily. Thereafter, the petitioner approached this Court and filed a writ petition for issuance of order of posting, vide C.W.J.C. No. 9226 of 1998. Despite the order passed in the writ petition, same was not complied with, then the petitioner filed a contempt petition, vide M.J.C. No. 05 of 1999 and only thereafter, the petitioner was posted as Assistant Settlement Officer (Revenue), vide Notification No. 203 dated 19-02-1999. It has been claimed that once the petitioner was promoted and he submitted his joining, unnecessary the authority concerned was not entitled to withheld the monetary benefit for the said period and the petitioner is entitled to claim monetary benefit for the said period i.e. period between 24-02-1997 to 19-02-1999.

In this case, a counter affidavit has been filed on behalf of respondent no. 1 to 4 and it has been pleaded that after notification dated 19-02-1999, the petitioner was posted as Assistant Settlement Officer, Dhanbad.

Ofcourse, vaguely, it has been disputed, but the averment made in paragraph 10, 11 and 12 of the writ petition has

not been controverted specifically in the counter affidavit.

Since the petitioner's stand that he joined pursuant to order of the promotion on 24-02-1997 has not been specifically controverted in its counter affidavit, save and except, vague denial, it is presumed that stand of the petitioner has not been disputed.

Accordingly, the writ petition stands allowed with a direction to grant all monetary benefit for the period from 24-02-1997 to 19-02-1999 to the petitioner. All the formalities must be completed within three months from the date of receipt/production of a copy of this order.

The writ petition stands allowed.

(Rakesh Kumar, J.)

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