

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10354 of 2015

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Suman Prasad, Son of Brij Kishore Prasad R/o village- Orma, P.S.-
Muffasil Siwan, P.O.- Hakaon District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director, State Health Society, Bihar, Patna.
3. The District Tuberculosis Officer, Siwan.
4. The Civil Surgeon cum Chief Medical Officer, Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Verma, Advocate.

For the Respondent/s : Mr. Apurva Kumar, AC to GA-11.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 29-07-2015

Heard learned counsel for the parties as with regard to

the following prayer made in this writ application:

"1. for a direction to the respondent to make payment of salary for the work taken by authority concerned on higher post (S.T.S.) vide order no. 35 dt. 20.3.2012 deputing petitioner at Referral Hospital Mairwa, Siwan and since then petitioner is discharging his both duty at deputation place without fail and in spite of representation respondents are not pay any interest towards payment of higher pay. Petitioner further prays for issuance of mandamus/direction upon respondents to allow him to discharge full fledged duty on the post of S.T.S. being senior and several post of S.T.S. is still vacant in the district and authority are taking duty on the post by adopting deputation method or as per his wish."

2. Having regard to the fact that the petitioner in this writ application had come out with plea that he would be entitled for salary of the post of Senior Tuberculosis Supervisor (hereinafter referred to as 'the S.T.S.') in view of the order of deputation passed by the District Tuberculosis Officer, Siwan dated 20.03.2012 and the petitioner has filed a representation to



the Civil Surgeon claiming that he is actually working on both posts of Swasthya Pradarshak as also S.T.S., this Court would find it difficult to direct the authority to pay the fixed salary to the petitioner of the post of S.T.S. inasmuch as the aforesaid order dated 20.03.2012 only authorizes the petitioner a Swasthya Pradarshak to work on deputation on the post of S.T.S.

3. None-the-less, since the petitioner is not a Government servant, he will not be governed by the provision of Rule 103 of the Bihar Service Code. It is thus for the competent authority of the Bihar State Health Society to consider as to whether the petitioner, on being sent on deputation, will be entitled for any deputation allowance while working on the higher post of S.T.S.

4. In that view of the matter, this Court would direct the competent authority of the Bihar State Health Society to take a decision as with regard to the claim of the petitioner which must be confined only to the payment of deputation allowance. It is however made clear that the petitioner cannot be given salary of the post of S.T.S. in absence of his appointment having been not made on that post.

5. Such a decision by the competent authority shall be taken within a fixed period of four months from the date of filing

of the representation by the petitioner.

6. With the aforesaid observation and direction, this writ application is, accordingly, disposed of.

(Mihir Kumar Jha, J)

Sujit/-

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