

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16178 of 2014

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1. Ram Dhyam Ram, son of Late Saryug Ram, resident of Sri Ram Kutir, 4H/4, Housing Board Colony, Bahadurpur, Post Office- H.B. Colony Bahadurpur, Police Station- Agamkuan, District- Patna
2. Shyam Sundar Pathak, Son of Late Damodar Pathak, permanent resident of village- Daraha, Police Station- Tarapur, District- Munger at present residing at A/86, Kankarbagh, Housing Colony, Police Station- Kankarbagh, District- Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
2. The Secretary, Finance Department, Government of Bihar, Patna.
3. The Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
4. The Deputy Secretary, Urban Development and Housing Department, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amit Prakash, Advocate.

For the Respondent/s : Mr. Avinash Kumar, SC 30.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 19-02-2015 Heard learned counsel for the parties as with regard to the following relief prayed in this writ application:

"1(i) To issue a writ in the nature of Certiorari for quashing the memo bearing no. 244 dated 04.07.2014 issued under the signature of Deputy Secretary to the Government whereby the nature of the services of the petitioners have been treated as contractual appointment and monthly honorarium is paid.

(ii) To issue a writ in the nature of Madamus directing the authorities to treat the services of the petitioners as tenure appointment and consequent upon treating as tenure appointment, the authorities be directed to make payment of Dearness Allowance on the salary received by the petitioners and also the payment of Conveyance Allowance and other admissible benefits accrued to the petitioners."

2. Mr. Amit Prakash, having regard to the claim of appointment of the petitioners, at the outset, does not intend to

press the aforesaid relief sought in paragraph 1(ii) of the writ application.

3. Reverting back to the prayer made in paragraph 1(i) of the writ application, Mr. Prakash submits that when the petitioners were appointed on a tenure basis for a period of three years or attaining the age of 70 years, whichever was earlier, the same could not have been subsequently changed to a contractual appointment by describing the petitioners to be drawing only monthly honorarium.

4. In the considered opinion of this Court, the claim of the petitioners, even in respect of the aforementioned prayer, seems to be wholly misconceived. What was offered to the petitioners in the order of appointment dated 28.01.2014 has nowhere sought to be either taken away or even refused inasmuch as whatever has been communicated in the letter of the Government to the Accountant General authorizing payment for the amount of the remuneration to which the petitioners have become entitled, on account of being Members of the Municipal Building Tribunal, has been only sought to be conveyed for making necessary payment to them.

5. The use of the word 'Sambida' (contact) having been not circumscribed by any period, the petitioners' tenure, as

given in Anenxure-1, the order of appointment has not been affected. Similarly, whatever, amount of emoluments was to be paid to them has been only explained and Mr. Prakash is not in a position to say that the amount which has been given therein to the petitioners is incorrect.

6. In that view of the matter, this writ application is wholly misconceived and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

Sujit/-

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