

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14752 of 2006

With
Interlocutory Application No. 9661 of 2014

Om Shankar Jha son of Jata Shankar Jha, resident of Harnichak Bashisth
Colony, P.S.Phulwarisharif in the district of Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Superintendent of Police, Nalanda
3. The Deputy Superintendent of Police, Central Patna
4. The Director General of Police, Bihar
5. The Senior Superintendent of Police, Patna

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate
Mr. Subodh Kr. Barnwal, Advocate
For the Respondent/s : Mr. Bijay Kumar Sinha, AC to AAG

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 16-01-2015

Heard the parties.

2. Originally, the petitioner had filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondents to pay him arrears of salary for the period from 01.03.2004 to 28.01.2006 with interest.

3. A counter affidavit has been filed on behalf of respondent no.2, the Superintendent of Police, Nalanda, stating therein that the petitioner has been paid his salary from March, 2004 to December, 2005 when the petitioner was posted in the district of Nalanda. It has further been stated that the petitioner was transferred from district Nalanda to the district Patna and he was accordingly relieved from the Nalanda District Police Force on 01.01.2006 allowing him to give his joining in Patna District Police Force. Therefore, it is pleaded that the respondent no.2 could not have paid him salary for the period subsequent to 01.01.2006.



4. In view of the averments made in the aforesaid counter affidavit, I.A.No. 9661 of 2014 has been filed on behalf of the petitioner seeking leave of this Court to implead the Senior Superintendent of Police, Patna as party respondent no.5 and issue him a direction for payment of arrear of salary for the period from 01.01.2006 to 28.02.2006 with penal interest. It has also been stated in the aforesaid Interlocutory Application that though the petitioner was relieved on paper on 01.01.2006 from the District of Nalanda, but the respondent no.2 actually relieved him by order dated 28.01.2006 and he accordingly gave his joining on 04.02.2006 in Patna District Police Force. In the aforesaid facts and circumstances of the case, I.A.No. 9661 of 2014 is allowed and the learned counsel for the petitioner is permitted to implead the Senior Superintendent of Police, Patna as respondent no.5.

5. Learned counsel for the petitioner has fairly conceded that the salary of the petitioner upto December, 2005 has already been paid to him.

6. After having heard the parties and in view of fair stand taken by learned counsel appearing on behalf of the parties, this Court is of the opinion that in stead of keeping the matter pending for deciding the issue regarding payment of arrears of salary of two months for the period from 01.01.2006 to 28.02.2006, the interest of justice shall be subserved if the petitioner is granted liberty to file a comprehensive representation before the Senior Superintendent of Police, Patna (respondent no.5) with all supporting documents, raising the issue with respect to non-payment of arrears of salary for the aforesaid period of two months. It is ordered accordingly.

7. If such a comprehensive representation is filed on behalf of the petitioner within a period of one month from today with

a certified copy of the present order, then the Senior Superintendent of Police, Patna shall be obliged to consider and decide the claim of the petitioner by a reasoned and speaking order at an early date preferably within a maximum period of three months from the date of filing of such representation.

8. If on consideration of the materials, the Senior Superintendent of Police, Patna or any other competent authority of the respondent-State comes to a conclusion that the grievances/claims raised in behalf petitioner are admissible to him, then consequential orders shall also be issued without any unnecessary further delay.

9. This is clarified that this Court has not gone into the merits of the claims raised on behalf of the petitioner and this is left to be decided by the competent authority strictly in accordance with law.

10. At this stage, learned counsel for the petitioner submits that though the petitioner is posted and working on the post of Assistant Sub-Inspector of Police, but in relevant records it appears that he is still being shown as Constable. He may raise this issue before the Senior Superintendent of Police, Patna who will pass appropriate order on that issue also.

11. The writ petition stands finally disposed of with the observations and directions made above. I.A.No. 9661 of 2014 stands allowed.

(Birendra Prasad Verma, J)

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