

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17056 of 2014

Dr. Mohiuddin Ansari, Son of Azimullah Ansari, R/o Moh.A-66, Indrapuri Colony,
P.S. Shastrinagar, Patna-14, District and Town- Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner/ Secretary, Health Department, Government of Bihar, Patna, New Secretariat, Baily Road, Patna
3. The Director-in-Chief, Health Department, Government of Bihar, Patna, New Secretariat, Baily Road, Patna
4. The Joint Secretary, Health Department, Government of Bihar, Patna, New Secretariat, Baily Road, Patna
5. The Director, Health Department, Government of Bihar, Patna, New Secretariat, Baily Road, Patna

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Md. Anisur Rahman

For the Respondent/s : Mr. GP17- Binodji Verma

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 12-10-2015

Petitioner was a medical doctor, who retired way back on 31.1.2004. After his retirement, he moved the High Court for settlement of his pension. The Court disposed of the matter with a direction upon the respondents for consideration of his claim. Matter was considered and vide an order dated 25.6.2012 passed by the Joint Secretary, Department of Health, petitioner was ordered to be paid pension treating his service for the period of 10 years. The said order is at page 42 of the writ application and it is history of the petitioner's service under the respondents.

Petitioner derived the benefit of pension thereafter and he

has not assailed the order of the Joint Secretary dated 25.6.2012 as contained in Annexure- 10. Now, he has filed the writ application for a direction upon the respondents that he be paid salary for the period 14.11.1986 to 31.1.2004. He wants a mandamus upon the respondents in this regard.

In the opinion of the Court, the present writ application and the relief therein is barred by principles of constructive res judicata. The petitioner cannot beget advantage of salary so long as the order dated 25.6.2012 contained in Annexure- 10 stands. Besides the above, the petitioner also seems to have not approached the High Court with clean hand because he cannot raise the issue of payment of salary when the authorities have clearly and categorically held in Annexure- 10 that he has not rendered service under the respondent State authorities. He was away to Saudi Arabia. Therefore, the grant of salary cannot be a bounty to him. These are sufficient grounds to reject the claim of the petitioner.

Writ application is dismissed for the reasons indicated above.

(Ajay Kumar Tripathi, J)

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