

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5398 of 2014

=====

1. ~~Raj~~ Shekhar S/O Late Ram Narayan Prasad Resident Of Mohalla - Ramsagar,
P.O. And P.S. - Gaya, District - Gaya

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna
2. The Secretary, Department of Personal and Administrative Reforms, Government of Bihar, Patna
3. The Finance Commissioner, Govt. Of Bihar, Patna
4. The Commissioner Cum Secretary, Public Health And Engineering Department, Vishvesharaiya Bhawan Campus, Baily Road, Patna
5. Regional Chief Engineer, Public Health and Engineering Department, Patna Division, Patna
6. Chief Engineer, Mechanical, P.H.E.D, Bihar, Patna
7. Chief Engineer, Nagrik, P.H.E.D., Bihar, Patna
8. Joint Secretary, P.H.E.D., Government Of Bihar, Patna
9. Executive Engineer, Public Health Division, Sasaram, Rohtas
10. Bihar State Sugar Corporation Ltd. Through Its Chairman Cum Managing Director, Ramtahal Bhawan, Baldeo Bhawan Path, Punaichak, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad

For The Respondent/s : Mr. GP32- Harish Kumar

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 03-03-2016

Petitioner was on deputation with the PHED as a Chemist posted at Sasaram. He came to be repatriated on 30.8.2003 and was also relieved. Petitioner decided to file a writ application challenging the decision, which was registered as CWJC No.8050 of 2003. Writ application was taken up on 10.9.2003. The Court decided to stay the order of repatriation and restrained the respondents from giving effect thereto. The writ application finally came to be

decided in favour of the petitioner on 1.3.2005.

The petitioner, therefore, started demanding payment of salary on the ground that because of the interim order passed by the High Court for all practical purposes there was no order of repatriation and he would have been deemed to have continued at his original place of posting at Sasaram on deputation. It is the case of the petitioner that passing of the interim order was made known to the authorities. They still continued to ignore it and because of the above said fact when the writ application was again taken up on 3.2.2004, the Court had this to observe:

“ It has been stated by the counsel for the petitioner that despite interim order dated 10.9.2003 the petitioner is not being allowed to join his duty at Sasaram. The interim order is very much clear that if the order impugned has not been implemented, then the order shall remain stayed. The respondents are directed to file counter affidavit on this point also.”

There cannot be a better reason for allowing the writ application of the petitioner by quashing the impugned order dated 30.10.2013 annexed as Annexure- 26. If the rational and reasoning given in the said impugned order in paragraph 9 is accepted, then it will be allowing the respondents to violate the interim order of the Court with impunity. There cannot be an interpretation to that effect by this Court.

The writ application is allowed. The impugned order contained in Annexure- 26, dated 30.10.2013 is quashed. Respondents are directed to ensure payment of salary to the petitioner for the period between 1.9.2003 and 3.4.2005 especially by virtue of the fact that petitioner was finally absorbed in the department and superannuated there from. Let the said payment accrue to the petitioner within a period of three months from the date of production of a copy of this order.

(Ajay Kumar Tripathi, J)

sk

U			
---	--	--	--