

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14559 of 2011

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Kanhaiya Ram S/O late Ram Swaroop Ram, resident at Nirikshan Bhawan
(District Board), Purani Bazar, Lakhisarai, P.S.- Lakhisarai, Distt.-
Lakhisarai

.... Petitioner

Versus

1. The State of Bihar
2. The Director, Panchayat Raj Department, Bihar, Patna
3. The District Board Lakhisarai through its Secretary/Chief Executive
Officer - Cum - Deputy Development Commissioner ,Lakhisarai

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar

For the Respondent/s : Mr. AC to SC-33

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5 20-06-2016 Heard learned counsel for the petitioner and learned
AC to SC-33.

The petitioner, invoking writ jurisdiction under Article-226 of the Constitution of India, has made a prayer to direct the Respondent to treat him as Assistant with effect from 31.03.2000 with all consequential benefits. He has also prayed for other relief.

The case of the petitioner is that after death of his father , who was employed in the District Board, Lakhisarai, he was appointed on compassionate ground as Choukidar vide order contained in Memo No.280 dated 22.07.1996. The petitioner, thereafter, in the capacity of Choukidar, was asked to work on

adhoc basis as Assistant vide Annexure-2 to the writ petition.

Learned counsel for the petitioner accepts that subsequently, the petitioner was promoted as Assistant by order contained in Memo no.517 dated 03.09.2009 vide Annexure-7 to the writ petition and, thereafter he is getting all the benefits including emoluments as Assistant. However, the petitioner, in the present writ petition, has claimed that from the date of issuance of Annexure-2 till the date when he was promoted as Assistant, the Respondent/District Board may be directed to pay the salary of the Assistant.

On perusal of Annexure-2, whereby the petitioner in the capacity of Choukidar, was asked to work on adhoc basis as Assistant, it is evident that the petitioner was provided additional pay of 20 % as special allowance. It has not been disputed that the petitioner had not received special allowances. Moreover, the petitioner was duly promoted in the year 2009 and, thereafter he started to get the benefit of Assistant. This order was passed in the year 2009 and after expiry of about two years, the present writ petition was filed by the petitioner for directing the Respondents to pay the salary of Assistant during the period, in which the work from the petitioner was taken in addition to Choukidar as Assistant.

In view of Annexure-2, in which it is specifically mentioned that for such work special allowance was given, there is no reason to pass any order for payment of salary for the period, during which the work from the petitioner was taken in addition to Choukidar as Assistant and now he is getting salary of Assistant. The writ petition is misconceived. Accordingly, the writ petition stands dismissed.

(Rakesh Kumar, J)

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