

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13991 of 2013

Indrajit Kumar Son of Late Kailash Prasad Sinha resident of village + P.O. Fatehpur, P.S. Belchhi, Distt. Patna and at present posted as Assistant Engineer, Rural Works Department, Works Sub - Division - Kankuppa, P.S. Kankuppa, Distt. Gaya

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Rural Works Department, Vishwasaraiya Bhawan, Bailey Road, Patna
3. The Commissioner & Secretary, Road Construction Department, Vishwasaraiya Bhawan, Bailey Road, Patna
4. The Finance Commissioner, Government of Bihar, Patna

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Amitabh Sohan

For the Respondent/s : Mr. J.P. Sharma, AC to GP-XXI

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 28-10-2016

Heard learned counsel for the petitioner and learned counsel for the State.

In this case, the petitioner is seeking relief of regularisation and payment of salary from the day of his respective joining along with the compound interest at the rate of 10% per annum till the payment has been made to him.

An advertisement was published in the year 2004, calling application from the competent persons.

In pursuance thereof, the petitioner applied for the said post. The Bihar Public Service Commission recommended 130

candidates for the Bihar Engineering Services (Class-II) on the post of Assistant Engineer (Civil) in the pay scale of Rs. 6500-10500/- and the list was sent to the Road Construction Department which was working as a Nodal Department.

Accordingly after selection, the petitioner along with others, gave joining in the Department of Road Construction on 17th August 2004, he was kept waiting for posting in the Road Construction Department and as no work was assigned to him till 30th September 2004, on 30th September 2004, the Road Construction Department issued a Notification posting the petitioner in Building Construction Department and the Rural Works Department. Accordingly, the petitioner had given his joining without delay on 19th May 2005 in the Rural Works Department. The Rural Works Department issued another Notification dated 30th November 2004 thereby the petitioner was posted as Estimating Officer-cum-Assistant Engineer, Rural Engineering Organisation, Works Division, Katihar and the petitioner gave joining at the place of his posting and took over charge on 3rd December 2004. Claim has been made by him that he has not been paid his salary on and from the date of his joining. On the date of his joining, he filed several representations, but it turned to futile. He further has claimed that identical persons moved before this Court in C.W.J.C. No. 237 of 2001 there the Court directed for

payment of salary along with the compound interest at the rate of 10% per annum.

In paragraph 9 of the counter affidavit, there is no denial of the averments made by the petitioner and has rather endorsed the fact that mentioned therein. It has further been said in the counter affidavit that the payment has been made. It will be relevant to quote paragraphs 9 and 11 of the counter affidavit, which are as follows:-

Para-9 That in reply to the averment made in para no. 8 of the writ petition. It is submitted that the Deputy Secretary, Rural Works Department communicated to the Accountant General, Bihar, Patna that the petitioner gave his joining in the Department, Road Construction, Government of Bihar on 17.08.2004 on 30.09.2004, the Road Construction Department being a nodal department issued a notification regarding posting of the petitioner in the Rural Works Department on 30.11.2014. The Rural Works Department issued another notification whereby the petitioner was posted as Estimating Officer-cum-Assistant Engineer, Rural Engineering Organisation, Works Division, Katihar, District-Katihar and on that post the petitioner gave his joining on 30.12.2014.

Thus the Deputy Secretary, R.W.D., vide memo no. 12852 dated 31.10.2014 has communicated to the Accountant General, Bihar, Patna, that the following period of the petitioner has been regularised which was kept waiting for posting:-

- A. From 17.08.2004 to 30.09.2004 waiting for posting (R.C.D.).
- B. From 01.10.2004 to 30.11.2004 waiting for posting (R.C.D.).
- C. From 01.12.2004 to 02.12.2004 till the period of taking/assuming charge.

Para 11 That, under the facts as stated above, salary of the petitioner has already been paid from the date of his joining therefore grievance of the petitioner has been redressed.

Admittedly the salary has been paid to the petitioner but no where the averment has been made of interest, but as per the State counsel, he has not been paid the interest on the amount of salary for the period he was kept waiting for posting and for that he cannot be held responsible.

As like, the petitioner of C.W.J.C. No. 237 of 2001, the respondent is directed to pay the compound interest at the rate of 10% over and above, the amount has been paid to the petitioner with

respect to the period in dispute and the interest will run till actual payment.

Accordingly, this petition is allowed.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.11.2016
Transmission Date	