

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7512 of 2011

Dr. Kanhaiya Lal , son of Shri Hari Lal Resident Of Village Mandipur Ongar Sarai, Police Station Ongari, District Nalanda. Presently Posted As Medical Officer, At Additional Primary Health Centre, Kasar, Ariari, Shikhpura, District Shekhpura.

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Health Department, Government Of Bihar, Patna.
2. The Civil Surgeon Cum Chief Medical Officer Sheikhpura, District Sheikhpura.
3. The Assistant Civil Surgeon Cum Assistant Chief Medical Officer Kasar, Ariari, Sheikhpura, District Sheikhpura.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Pandey

For the Respondent/s : AC to GP16

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 02-02-2016

Heard learned counsel for the petitioner and learned AC to GP

No. 16.

The petitioner, a Medical Officer, invoking writ jurisdiction of this court under Article 226 of the Constitution of India, has prayed for directing the respondents to pay his due salary from the month of May 2009 to February 2011.

It has been claimed that the petitioner had continued working as Medical Officer in Additional Primary Health Centre, Kasar, Ariari, in the district of Sheikhpura. Despite his best effort and even after filing several representations he was not paid his due salary.



Thereafter, he was constrained to approach this court by filing the present writ petition. In the writ petition a counter affidavit has been filed on behalf of the respondent no. 2 i.e. Civil Surgeon -cum -Chief Medical Officer, Sheikhpura, and a vague stand has been taken that petitioner on number of dates was found absent. In the counter affidavit some development has been brought on record to show that show cause notices were issued to the petitioner which was not replied, whereas rejoinder to the counter affidavit has been filed by the petitioner. Besides this, a supplementary affidavit was also filed and through supplementary affidavit extract of the attendance register was brought on record by the petitioner to show that save and except for a few dates petitioner was regularly attending his job. In the rejoinder to the counter affidavit also same plea has been reiterated. Besides this, it was categorically stated that show cause notice, which was mentioned in the counter affidavit, petitioner was never informed nor he ever received any show cause notice.

Learned counsel for the State was not in a position to satisfy the court as to whether any departmental proceeding was initiated against the petitioner or not.

In view of the fact that no proceeding was pending against the petitioner as well as the stand of the petitioner that he has not been paid salary from May 2009 to February 2011, the court is of the

opinion that the writ petition can allowed with a direction to all the respondents to pay due salary of the petitioner from the month of May 2009 to February 2011 within a period of eight weeks from the date of receipt / production of a copy of this order. The due salary is required to be paid with interest at the rate of 12% which is to be calculated from the date when due occurred. The entire due salary with interest must be paid to the petitioner within the aforesaid time.

It is made clear that the respondent no. 1 /Principal Secretary, Health Department, Government of Bihar, Patna would be at liberty to recover the interest amount from the pocket of the concerned Civil Surgeon.

(Rakesh Kumar, J)

Praful/-

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