

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 7572 of 2014

Mathura Nath Champai, Son of Late Madho Prasad, at present posted as Basic Health Worker Primary Health Centre, B. Kothi, District - Purnea.

.... Petitioner/s

Versus

1. The State Of Bihar through the Health Commissioner-cum-Principal Secretary Department of Health, Bihar, Patna.
2. The Director-in-Chief, Health Services, Bihar, Patna
3. The District Magistrate, Purnea.
4. The Civil Surgeon-Cum-Chief Medical Officer, Purnea.
5. The In-Charge Medical Officer, Primary Health Centre, B. Kothi, District - Purnea.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Subodh Prasad

For the Respondent/s : Mr. SC13- Arvind Kumar-1

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 27-04-2016

Heard learned counsel for the parties.

Vide order, dated 23.01.2014, contained in Annexure-7, claim of the petitioner for payment of salary for the period of dismissal, has been rejected by the Civil Surgeon-cum-Chief Medical Officer, Purnea. Petitioner wants quashing of the same.

Issue of appointments on the post of Basic Health Worker by the erstwhile Civil Surgeon, Purnea was a matter of controversy. Such appointments or engagements were made en-mass by one Dr. Shyam Sunder Prasad. When the controversy or scandal broke,



decisions were taken to remove all such persons, because appointments were found to be illegally done without any advertisement or following any procedure, much less any approval or clearance by the superior authorities and without any roaster clearance.

When orders of such removal came to be passed, naturally the High Court was flooded with large number of writ applications, running into hundreds. Diverse kinds of orders came to be passed and, in fact, the final word on the issue has not yet been pronounced, since some litigation is still pending before the Hon'ble Apex Court.

The Court has occasion to record as above, because the present writ application is not first of its kind, which has come up before this Court for consideration.

Confining to the present case, case of the petitioner in terms of an order passed in L. P. A. No. 3 of 2010 was placed before a One-Man-Committee, headed by Justice Uday Sinha (retired) for consideration about the validity of such engagement or appointment. The decision or deliberation of Justice Uday Sinha is annexed as Annexure – 4. The said order does indicate that earlier the termination of the petitioner was effected by virtue of the fact that it was found to be illegal. However, the said One-Man-Committee labeled the engagement or appointment of the petitioner as “irregular” and this is how he came back into service. Thereafter the

demand for payment for the period of dismissal has been raised.



The appointment of the petitioner is not without controversy. The Court cannot shut its eyes in the manner in which the engagement or appointment of the petitioner was made, which led to passing of the previous orders of dismissal and thereafter on a reference having been made to a One-Man-Committee, the status of the engagement of the petitioner was labeled as irregular. In view of the chequered history of engagement of the petitioner, being not free from controversy and taint, the petitioner has been given lease of life, by virtue of the opinion rendered by a One-Man-Committee. This is not one of those cases, where petitioner is required to be compensated or rewarded for the period of termination. The order of termination was passed on the ground that it was a case of illegal appointment, which is now being termed as irregular. If the petitioner was a substantively appointed government servant without any controversy as to the nature of his engagement and appointment, an illegal termination generally is visited with a direction for payment of salary, when that order is set aside. But the facts of the case of the petitioner, being such, this Court is not enthused to pass any order, making any direction for payment of salary for the period of termination in the case of the present petitioner.

The respondents have also brought on record the similar opinion or view expressed in a batch of writ applications, passed by a Learned Single Judge, a copy of which is Annexure – C to the

counter affidavit. The Court is in agreement with the view expressed by the said Learned Single Judge in matter of such demand.

Writ application, therefore, is dismissed. No interference is warranted with Annexure – 7.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	AFR
CAV DATE	
Uploading Date	28.04.2016
Transmission Date	