

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4650 of 2011

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Urmila Sinha W/o Sri Ram Sagar Singh R/o Village Godhiyar, P.O. +
Panchayat Nikaspur, Block Morwa, Distt. Samastipur, At Present Secretary,
Gram Kachahari Nikaspur, Block Morwa, Distt. Samastipur

.... Petitioner/s

Versus

1. The State Of Bihar (Through Chief Secretary Govt. Of Bihar, Patna)
2. The Principal Secretary, Department Of Panchayat Raj, Govt. Of Bihar, Patna
3. The Deputy Director, Panchayat Raj Govt. Of Bihar, Patna
4. District Magistrate, Samastipur
5. The District Panchayat Raj Officer, Samastipur
6. The Sub-Divisional Officer, Samastipur
7. The Block Development Officer, Morwa, Distt Samastipur
8. Sarapanch, Gram Kachahari, Nikaspur, Block Morwa, Distt Samastipur
9. Sushma, wife of Atma Ram Singh, resident of village- Godhiari, P.S.- Tajpur, District- Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surya Narain Roy

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

10 26-02-2016 Heard Sri Surya Narain Roy, learned counsel for the petitioner, learned AC to GA No. 9 as well as Sri Uma Kant Shukla, learned counsel assisted by Sri Rajesh Ranjan, learned counsel who has appeared on behalf of the newly added respondent no. 9.

The petitioner, invoking writ jurisdiction of this court under Article 226 of the Constitution of India, has made a limited prayer for directing the respondents to pay salary for about 17 months during which she had functioned as Secretary, Gram

Kachahari, Nikashpur Panchayat, block –Morwa, district-Samastipur.

It has been pleaded in the writ petition that petitioner was appointed as Secretary, Gram Kachahari, Nikashpur Panchayat as per the joining letter issued by the Sarpanch. The petitioner thereafter functioned regularly but she was not being paid salary. In the meanwhile, due to change of circumstances, the appointment of the petitioner was cancelled and in her place the respondent no. 9, who was earlier functioning as Secretary, Gram Kachahari was reinstated and petitioner was discharged from duty with effect from 1.11.2010. On the basis of the pleadings of the parties it is evident that the respondent no. 9 was functioning in such capacity on the basis of her selection as Secretary, Gram Kachahari. However, subsequently in view of the order passed by this Court it was considered that even the persons who were having Madhayama Certificate were entitled to be engaged and only thereafter the respondent no. 9 was removed and in her place the petitioner was asked to function. The petitioner was having Madhayama Certificate. However, subsequently the respondent no. 9 was again directed to be reinstated vide Annexure – 'B' to the counter affidavit filed on behalf of respondent no. 4 to 7. Once the respondent no. 9 was

directed to be reinstated automatically the petitioner was required to give accommodation to the respondent no. 9 and the petitioner was removed with effect from the issuance of the order dated 1.11.2010 i.e. Annexure - 'B' to the counter affidavit. Of course while reinstating the respondent no. 9 direction was given to reinstate with effect from the date of her termination. However, it has not been disputed by either of the parties that petitioner had functioned during the period for which salary has been claimed.

In view of the fact that petitioner has discharged her duty in the capacity of Secretary, Gram Kachahari, Nikashpur certainly she is entitled to be paid her remuneration for the said period. The claim has been made for payment of remuneration for 17 months during which the petitioner has functioned.

In view of the limited prayer made by the petitioner the court is of the opinion that it is a fit case for directing the respondents to take all steps to clear the due emolument of the petitioner within a period of four months from the date of receipt / production of a copy of this order.

It goes without saying that if the State Exchequer has suffered any loss due to inaction of any Government Official the State would be at liberty to recover the said amount from the concerned person.

In this case the respondent no. 9 was impleaded as a party in view of an interlocutory application filed on her behalf. She claims that since she has been reinstated with the date with retrospective effect the respondent no. 9 is also entitled to get salary. In the present writ petition the court is only required to address about the relief which has been sought for by writ petitioner. Accordingly on the issue which is being raised on behalf of respondent no. 9, there is no need to record any finding. The writ petition with above observation stands allowed.

It is further made clear that if within a period of four months dues of the petitioner is not cleared and petitioner is not paid thereafter the petitioner shall be entitled to get interest at the simple rate of 9% per annum on the claimed amount. The interest amount shall be recovered from the pocket of the concerned officer /employee responsible for delay in payment.

(Rakesh Kumar, J)

Praful/-

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