

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21849 of 2012

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1. Dr. Nageshwar Narain Shahi S/O Hari Madhav Prasad Shahi R/O Mohalla-Ujjain Tola, Duck Bunglow Road, Bettiah, P.S.-Sadar, Distt-West Champaran

.... Petitioner/s

Versus

1. The State Of Bihar Through Its Principal Secretary, Department Of Health And Family Welfare, Patna
2. The Director-In-Chief Health Services, Govt. Of Bihar, Patna
3. The Under Secretary, Department Of Health , Govt. Of Bihar, Patna
4. The Civil Surgeon Cum Chief Medical Officer, Saran At Chapra
5. The Accountant Genral , Govt. Of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/ : Mr. Mukesh Kant
For the State : Mr. Sunil Kumar Mandal, SC 24
Mr. Arjun Prasad, AC to SC 24
For Accountant General : Mr. Raj Nandan Prasad

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER**

3 20-07-2016 Heard learned Counsel for the parties
concerned.

The petitioner was appointed as Civil Assistant Surgeon in Bihar Health Services, whereupon he had joined on 21.03.1979. His services were confirmed subsequently. He continued as such till 01.02.1990 with effect from which his resignation was accepted. There is no dispute in the fact to this extent.

It is the contention of the petitioner that the petitioner is entitled to pro-rata pension and gratuity,

computing the period of his actual service, i.e., from 21.03.1979 to 01.02.1990.

Rule 101 (a) of the Bihar Pension Rules lays down that resignation from public service by a Government servant shall entail forfeiture of past services. Rule 101 (a) of the Bihar Pension Rules is relevant and is being extracted herein below:-

101. (a) Resignation of the public service or dismissal or removal from it for misconduct, insolvency, inefficiency not due to age, or failure to pass a prescribed examination entails forfeiture of past service.

The petitioner has relied upon single Bench decisions of this Court, in the cases of **Dr. (Smt.) Shahida Hassan v. State of Bihar and Others**, reported in **2004 (1) PLJR 318** and **Tapan Kumar Chatterjee v. State of Bihar and Others**, reported in **1998 (1) PLJR 707**.

The language of Rule 101 (a) of the Bihar Pension Rules is unambiguous and it clearly lays down that if a Government servant resigns from public service, forfeiture of past service shall be the consequence. The decisions relied upon by the petitioner, in the cases of **Dr. (Smt.) Shahida Hassan** (supra) and **Tapan Kumar Chatterjee** (supra), have been overruled by a Division

Bench of this Court, in the case of **State of Bihar v. Dr. (Smt.) Shahida Hassan**, reported in **2010 (2) PLJR 189**.

I do not find any merit in this application. This application is accordingly dismissed.

It is, however, made clear that Rule 101 (a) of the Bihar Pension Rules provides for forfeiture of pension only, which includes gratuity. If other post retiral dues, like General Provident Fund amount and Group Insurance Scheme amount, have not been paid to the petitioner, the State-respondents will be required to pay the said amount, within a period of three months from the date of receipt/production of a copy of this order.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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