

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9337 of 2013

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Jageshwar Paswan Son Of Late Dwarika Paswan Resident Of Village -
Nemdarganj, P.O. Audhey, P.S. And District - Sheikhpura

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Road Construction Department, Bihar, Patna
3. The Chief Engineer, Road Construction Department, Govt. Of Bihar, Patna
4. The Superintending Engineer, Rcd Circle, Biharsharif
5. The Executive Engineer, Water Road Division, Biharsharif
6. The Assistant Engineer, Water Road Sub - Division, Sakari, Paura, Biharsharif, Nalanda

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bajrangi Lal.

For the Respondent/s : Mr.Ajay Kumar Rastogi, A.A.G.X
Mrs. Shilpa Keshri. A.C. to A.A.G.X.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

7 01-09-2016 Heard the counsel for the petitioner and the counsel
for the State.

In this case the petitioner is seeking payment of salary from the period, June 2012 till up to date. As per the petitioner he has been working as Mate in the office of the Executive Engineer, Water Ways Sub-Division, Sakra Paura, Nalanda.

As per the petitioner, he was directed to accept relieving order whereupn petitioner refused to accept the same, which constitutes major misconduct, as he was never given or served any order of transfer but was served the letter No.1250



dated 07.06.2012 was issued by the Executive Engineer whereby the petitioner was directed to join at his deputed place within three working days, otherwise be ready to face departmental proceeding. But the petitioner went on insisting the respondent to provide him transfer order but the respondent concerned instead of providing him any transfer order stopped his salary since June, 2012.

As per the counter affidavit letter dated 14.08.2010 which shows that the petitioner was deputed to the office of S.D.O., Irrigation Department, Bihar Sharif. After the order of deputation the petitioner did not join. The Executive Engineer, Water Ways Division, Bihar Sharif dated 06.01.2012 directed S.D.O., Sakari, Paura to relieve him within three days. The S.D.O. vide Letter No.144 dated 7.6.2012 informed the Executive Engineer that he has been relieved but he has his inability to join there. The Executive Engineer vide letter No.1550 dated 23.06.2012, Letter No.1675 dated 28.08.2012 directed to join the place of deputation but he refused to join. The S.D.O., Water Ways Division, Sakari Paura, addressed to Letter No.440 dated 15.10.2012 to join the post but he did not join. The Executive Engineer, vide Letter No.2151 dated 01.11.2012, Letter No.313 dated 20.02.2013 and Letter No.10.07.2013 recommended for taking action against him. The letters were sent to the petitioner

through the registered post as well as the order was notified through the Press Communique even then the petitioner did not join, rather he always resisting his own.

Letter dated 07.07.2012 written by the petitioner itself shows that he was relieved from the post. Even then he had not joined and he remained in his house and making illegal prayer for payment.

Counsel for the petitioner submits that the petitioner has been going to original place of posting regularly but no one was taking work from him. When the petitioner was relieved, he should not remain at the place where he was not required to work but was required to join the new place of posting, but he remained absent and kept himself standing at the post from where he was relieved.

In such view of the matter, the petitioner is not entitled to the salary.

Accordingly, the petition is dismissed.

(Shivaji Pandey, J)

AnilKrSinha/-

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