

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11460 of 2016

Dr. Gopal Prasad S/o Late Jadu Lall, R/o 201 Shristi House, Opposite- Kankerbagh, Town & District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, New Secretariat, Patna.
2. The Joint Secretary, Health Department, Government of Bihar, New Secretariat, Patna.
3. The Additional Secretary, Health Department, Government of Bihar, New Secretariat, Patna.
4. The Under Secretary, Health Department, Government of Bihar, New Secretariat, Patna.
5. The Bihar Public Service Commission through its Chairman, Jawaharlal Nehru Path, Patna-1.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Shivendra Kishore, Sr. Advocate with
Mr. Jai Kishor Poddar, Advocate
For the Respondent-State : Mr. Anil Kumar Sinha, GA-1
Mr. Aditi Hansaria, AC to GA-1
For the Respondent-BPSC : Mr. Sanjay Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-08-2016

Heard the parties.

The petitioner is aggrieved by the order bearing Memo No.541 (9) dated 26.6.2015 issued under the signature of the Joint Secretary, Health Department, Government of Bihar, Patna, whereby he has been denied salary on grounds of unauthorized absence for the period 23.3.2004 to 10.1.2008 and again for the period 15.1.2009 to 21.11.2010 on the principle of 'No Work No Pay'. By the same order the petitioner has also been brought down at the minimum of the basic scale of the Medical Officer.

The petitioner had earlier moved this Court in CWJC No.10226 of 2013 questioning the departmental proceedings initiated

against him vide Memo 147(9) dated 4.2.2010 and this Court in consideration of the circumstances that the departmental proceedings had continued for almost 4 years and had not concluded despite the passage of time, disposed of the writ petition in the following terms:

“In the circumstances, this Court directs the respondents to conclude the pending proceeding against the petitioner positively within two months from the date of receipt/production of a copy of this order. In case the same is not concluded within two months from the date of receipt/production of a copy of this order, the proceeding shall stand quashed and the petitioner shall be treated as fully exonerated from all the charges and the respondents shall be debarred from taking any action against him in future on the basis of the charges framed in the proceeding including the amended charges. Thereafter the respondents shall proceed to take a decision on the recommendation of the BPSC in respect of the petitioner and shall take a final decision within one month.

This writ application is disposed of with the aforesaid observations and directions.”

(Emphasis is supplied by me).

While the writ petition was disposed of on 15.7.2014 requiring the respondents to conclude the proceedings within two months of the production of a copy of the said order which was presented by the petitioner on 30.7.2014 but no order was passed within the period stipulated and it is ultimately by the impugned order dated 26.6.2015 that a penalty of reversion as well as forfeiture of salary has been passed which is impugned at Annexure-1. Being aggrieved the petitioner has approached this Court in the present writ petition.

This matter was heard on 25.7.2016 and this Court discussing the circumstances, required answer from the respondents. Following the direction, a counter affidavit is filed enclosing a notification bearing

Memo No.760 (9) dated 5.8.2016 of the State Government, whereby the State Government on a review of the case of the petitioner in the background of the order passed by this Court in CWJC No.10226 of 2013 has set aside the punishment order bearing Memo No.541 (9) dated 26.6.2015 impugned at Annexure-1 and which renders this writ petition infructuous.

Although Mr. Shivendra Kishore, learned senior counsel appearing for the petitioner prays for appropriate direction to the respondents for providing the service benefits that has been taken away from the petitioner by the order impugned but in my opinion once the State Government themselves have cancelled the punishment order then the petitioner should have no apprehension regarding the consequences flowing therefrom, which are obvious and only a matter of natural course. Needless to mention that the State Government would not delay the matter and provide the admissible benefits to the petitioner within three months from receipt/production of a copy of this order.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15-08-2016
Transmission Date	N.A.