

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13780 of 2013

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Bivesh Chandra Thakur Son Of Late Ram Ashis Thakur Resident Of Village &
P.O. Fpathai P.S. Sadar District Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar Through Its Secretary Urban Department
2. Municipal Corporation Muzaffarpur Through Their Commissioner Having Its Office At Muzaffarpur
3. Municipal Commissioner, Municipal Corporation Muzaffarpur
4. Secretary Municipal Corporation, Muzaffarpur
5. Incharge Censor Officer, Muzaffarpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Nath, Adv.
For the State : Mr. Harun Quareshi, AC to SC-01
For the Resp. 2 & 3 : Mr. Awadhesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 13-12-2016

Heard learned counsel for the parties.

In this writ application, the petitioner has claimed for giving direction for payment of salary to the petitioner since 1.8.2010 up to the date of filing of this application, claimed that the action is completely arbitrary, illegal, without cogent reason and also made a prayer for quashing the memo no. 1732 dated 4.8.2010 (Annexure-6) and letter no. 141 dated 18.3.2011 (Annexre-8).

Along with the petitioner, four persons were also slapped with identical charges, serious allegation has been made of using tampered receipt for Toll Tax at Maripur Chaukh, illegality in



recovering the toll tax in the district of Muzaffarpur. The petitioner was appointed as a daily wager, discharging the Class-III service, posted at Toll Tax, Maripur Chaukh, Muzaffarpur along with others. He along with other persons was put to departmental proceeding, the enquiry officer submitted the enquiry report dated 24.6.2011 finding nothing against the petitioner.

During pendency of this application, the petitioner was discharged from allegation and he was reinstated in service. Only grievance left for the petitioner is that he should be given salary for the period he has been put to deprivation of the salary.

Normally, a daily wager does not have a right to the post and he cannot compel the employer for granting him job unless there is an allegation of malafide. Even during the period, he was removed, was taken into service and discharged the duty but, vide letter dated 21.1.2011, he was deputed for discharging the duty with respect to census. He submits that during period of his discharge, he was asked to discharge the duty and for that he was paid remuneration. So in nutshell, it appears that for certain period even during his discharge, the duty has been taken, payment has been made but, one thing is there, he was a daily wager, he was proceeded departmentally and no adverse finding has been recorded by the Enquiry Officer inasmuch as the petitioner has been taken in service.



Let the authority should consider the entitlement of the salary for the period he has been deprived of minus the amount which has been paid while discharging in census duty. The authority must take a decision within a period of three months from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.12.2016
Transmission Date	

