

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Review No.463 of 2011
Arising out of
Letters Patent Appeal No. 1404 of 2010**

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Aruni Kant Issar, S/O Uma Kant Issar, R/O Village - Konaila, P.O. Kamarao, P.S. Dalsingh Sarai, District – Samastipur, at present residing at Naya Bazar, Saharsa, Distt. - Saharsa

.... Petitioner/s

Versus

1. The State of Bihar
2. Director of Health Service, Government of Bihar Patna
3. Commissioner - Cum - Secretary, Health Department, Government of Bihar, Patna
4. Joint Secretary, Department of Health, Government of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Mukund, Advocate.

For the Respondent/s : Mr. Shyam Kishor Sharma, GA 1

Mrs. Shalini Raut, AC to GA 1.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 04-05-2016

Heard learned counsel for the parties.

2. The present application for review is to an order passed by this Court on 24.08.2011 in Letters Patent Appeal No. 1404 of 2010 whereby the appeal filed by the appellant against the order passed by the learned single Bench on 29.07.2010 was dismissed.

3. The claim of the appellant is for payment of arrears of salary for the period from 29.04.1978 to 15.03.1983 during which period the appellant was absent from duty. The claim for payment of arrears of salary of such period has been declined by the learned single Bench and such order has been affirmed in appeal.

4. The learned counsel for the appellant refers to a Division Bench judgment of this Court in the case of **Smt. Pravabati Sengupta v. The State of Bihar & Ors.** reported as **1989 BBCJ 230**. In the aforesaid case, an order of removal from service on account of absent from duty, was set aside as it was found to be without following the procedure provided under the Civil Services (Classification, Control and Appeal) Rules.

5. We do not find that the said judgment has any application to the facts of the present case. The said judgment pertains to initiation of a disciplinary proceeding and consequently violation of the procedure prescribed, but in the present case, no disciplinary proceeding has been initiated against the appellant. The appellant is claiming arrears of salary of the period of absence for almost five years. It has been found that the appellant remained absent without permission, therefore, there could not be any claim for payment of arrears of salary for the said period, which can be enforced through writ petition.

6. We do not find any error apparent on the record, which may warrant consideration in the application of review of the order. The Civil Review application stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/Anjani

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