

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.5932 of 2011

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DR. SUBARN SHEKHAR JHA S/O LATE SRIDHAR JHA R/O
MOHALLA - RAJKUMAR GANJ, P.S. SADAR, TOWN AND DISTRICT
- DARBHANGA

.... PETITIONER/S

VERSUS

1. THE STATE OF BIHAR

2. MR. AMARJEET SINHA, PRINCIPAL SECRETARY,
DEPARTMENT OF HEALTH, GOVERNMENT OF BIHAR, PATNA

3. MR. RAM KUMAR PANDEY, JOINT SECRETARY,
DEPARTMENT OF HEALTH, GOVERNMENT OF BIHAR, PATNA

.... RESPONDENT/S

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Appearance:

For the Petitioner/s : Mr. Shiv Kumar, Adv.

For the Respondent/s : Mr. Lalit Kishor, PAAG

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

15 08-04-2016

Heard learned counsel for the petitioner as well as
learned PAAG.

In pursuance of order dated 29.03.2016, the Principal
Secretary, Department of Health, Government of Bihar and the
Joint Secretary, Department of Health, Government of Bihar have
their physical presence along with second supplementary show
cause on their behalf. Gone through the same.

The dispute having arisen at an earlier occasion and
which happens to be the subject matter of CWJC No.7486 of 2004
relates with acceptability of absence of the petitioner, on account
of his going to higher studies from 27.06.1979 to 24.06.1984. The
operative portion of the order reads as follows:

***“I, accordingly, direct the respondent
no.2 to treat the petitioner’s absence
from service from 26.03.1983 till the date***

he actually joined and pass appropriate orders regarding the said period and the dues that he would be entitled to after treating the period 27.06.1979 to 26.03.1983 as study leave.”

As the opposite party failed to act in terms of the direction as quoted above, on account thereof, instant MJC has been brought up at the end of the petitioner. Lastly, to have effective compliance, physical presence of the contemnors have been directed which ultimately, by way of second supplementary show cause appears to be logically concluded.

Annexure-A of the second supplementary show cause contains the order of the department and column no.9 thereof, speaks regarding steps taken up by the Department in pursuance of the order passed by the writ court. The learned counsel for the petitioner challenges relating to 9(i)(kha)(Ga) and further submitted that department is not at all competent to direct and further, forbid the processes of increment. That happens to be a separate matter and for that, petitioner so feels aggrieved may launch a proceeding in accordance with law.

With regard to clause 9(i)(ka), 9(ii)(ka)(kha), it has been submitted at the end of the petitioner that, to that extent payment be made whereupon, the learned PAAG submits that matter has already been referred to Accountant General and after having pay slip therefrom, petitioner will get the arrear. It is

expected at the end of the contemnor to have the fruitful result of 9(i)(ka),(ii)(ka)(kha) at his end and further, will ensure that payment of arrear for the aforesaid period should materialize within three months positively. It is also expected at the end of Accountant General to have early disposal of the request made by the contemnor in granting pay slip in favour of petitioner at an earliest so that payment should be effected within the aforesaid period of three months and for that, contemnor is directed to communicated the Accountant General with a copy of this order. A copy of this order for its proper compliance should be served upon learned PAAG.

Personal appearance of concerned officials are dispense with.

With the aforesaid finding instant contempt petition is dropped.

(Aditya Kumar Trivedi, J.)

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