

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13022 of 2013

1. Narbadeshwar Prasad Son Of Late Y.P. Sinha, Resident Of 57, Nandanpuri, Khajpura, P.S.- Rajeev Nagar, Patna- 14

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Govt. Of Bihar, Patna
2. The Principal Secretary, General Administration Department, Government Of Bihar, Patna
3. Officer On Special Duty- Cum- Deputy Secretary, Null General Administration Department, Government Of Bihar, Patna
4. The Under Secretary, General Administration Department, Government Of Bihar, Patna

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Jha, Advocate.

For the State : Mr. Ashutosh Kumar Jha, AC to GA 11

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 27-10-2016

Heard learned counsel for the petitioner and learned counsel for the State.

This writ petition has been filed for quashing the letter no.2351 dated 11.2.2013 by which the Officer on Special Duty, Department of General Administration, Government of Bihar, Patna has communicated the decision that his application dated 18.5.2012 for sanction of leave between 28.8.2006 to 11.4.2007 has been rejected.

Petitioner has raised a grievance that period of absence has not been adjusted against the sanctioned leave. Reason has

been assigned in the counter affidavit that he was transferred but in audacity he has not joined the transferred post and all through he remained absent.

In the rejoinder, petitioner has submitted that he was transferred to Bhabua before the Panchayat Election. At that time he was posted in the office of Bihar Survey Officer, Gulzarbagh and at the relevant time, two officers were posted there against three posts. During Panchayat Election, 2006, respondent had deputed the Deputy Director of Bihar Survey Office, Gulzarbagh to Jamui and transferred the petitioner (Assistant Director) to Kaimur without any successor. During entire Panchayat Election petitioner was not relieved. After completion of Panchayat Election when the Deputy Director returned to Headquarter he requested for cancellation of petitioner's relieving order till posting of his successor. Accordingly Deputy Director, Bihar Survey Officer, Gulzarbagh directed the petitioner to continue as usual in Bihar Survey Office, Gulzarbagh but period has not been mentioned by the petitioner. In paragraph 4, petitioner has given its explanation for non-joining the post as during this period his wife was ill on account of slip-disc, accordingly he filed an application for earned leave. Thereafter the left leg of the



petitioner was fractured and he remained bed ridden for the period from 14.10.2006 to 12.12.2006. Thereafter petitioner received heart attack during the period from 13.12.2006 to 23.7.2007. Out of that period leave has been sanctioned for the period from 12.4.2007 to 23.7.2007. Letter dated 11.2.2013 (Annexure-1) is under challenge which has been passed rejecting his claim for sanctioning the leave.

As the order is very cryptic, does not give any opportunity to this Court to assess what was going in the mind of the competent authority in rejecting the claim of petition. It has held by Hon'ble Supreme Court in the case of Chairman and Managing Director, United Commercial Bank and others v. P.C. Kakkar, reported in 2003(4) SCC 364 that the competent authority is required to provide reason for rejecting the claim of petitioner.

In such view of the matter, letter dated 11.2.2013 is set aside with a liberty to the petitioner to file a detailed representation giving clear cut fact along with supporting document before the competent authority who will consider the case of the petitioner and take decision in accordance with law backed by its reason. This Court is not giving any opinion on the

merit of the case. The competent authority will be obliged to dispose of the representation within a period of four months from the date of filing of the representation.

Accordingly this writ petition is allowed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.11.2916
Transmission Date	NA