

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17221 of 2008

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Avinash Kumar Sinha, son of Baleshwar Prasad, resident of Mohalla-
Chitragupta Nagar, P.S. Patrakar Nagar, District-Patna

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary of Irrigation Department, Bihar, Patna
2. The Chief Engineer(Mechanical), Irrigation Department, Patna
3. The Superintending Engineer(Mechanical) Irrigation Department, Mithapur, Patna
4. The Executive Engineer(Mechanical)-cum- Electrical Irrigation Department, Balmi, Patna
5. The Assistant Engineer, Flood Control-cum-Electrical-cum-Mechanical, Balmi, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar

For the Respondent/s : Mr. S.S.P.Yadav, SC-14

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

6 17-05-2017 At the very outset, Sri S.S.P.Yadav, learned Standing Counsel no.14 again requested for adjourning the case for filing counter affidavit. The present writ petition was filed in the month of November,2008, after serving copy of the petition in the office of the learned Advocate General, Bihar, with a prayer to direct the Respondents to make payment of his salary from 01.06.2008 to 16.10.2008. Thereafter, for the first time, the case was taken up on 24.09.2015 and on the prayer of learned State Counsel , six weeks time was granted for obtaining instruction and filing counter affidavit. Again on 09.03.2017, on the prayer of Sri S.S.P.Yadav, learned Standing Counsel no.14, further time was



granted. Thereafter, again on two occasions on the prayer of learned State Counsel, the case was adjourned. In the meanwhile, the petitioner had filed an Interlocutory Application i.e. I.A. No.8565 of 2009 enclosing therewith an office order issued under the signature of the Executive Engineer vide Memo No.326 dated 07.03.2009 (Annexure-10 to the writ petition). The order dated 07.03.2009 categorically states that a decision was already taken to make payment of salary from 01.06.2008 to 16.10.2008 treating the said period as working period. Even though, in the year 2009 itself, a decision was taken to make payment, it has been complained by learned counsel for the petitioner that till date payment of salary for the said period has not been made. Despite several indulgence, learned State Counsel has not been able to get any instruction. He submits that repeatedly he had sent communication to the authority concerned and he prays for granting indulgence as a last indulgence.

Considering the fact that the case pertains to payment of salary, which is not in dispute vide Annexure-10 to the writ petition, after granting accommodation earlier on several occasions, the Court feels that it would not be proper to grant any adjournment. Accordingly, the prayer for adjournment stands refused.



Considering Annexure-10 to the writ petition i.e. office order issued under the signature of the Executive Engineer, contained in Memo No.326 dated 07.03.2009, the Respondents are directed to pay salary of the petitioner for the period from 01.06./2008 to 16.10.2008 within a period of eight weeks from the date of receipt/production of a copy of this order. It goes without saying that the Respondents shall also pay interest on the aforesaid amount and interest amount shall be calculated from the date of issuance of Memo no.326 dated 07.03.2009 till the date of payment. The interest amount will be at the rate of simple interest of 6 % per annum. The State Government would be at liberty to recover the interest amount from the pocket of concerned officer/employee responsible for non-payment of admitted dues of the petitioner within time.

The writ petition is allowed.

(Rakesh Kumar, J)

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