

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5900 of 2017

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Satya Narayan Prasad Sah Son of late Asho Nath Sah, Resident of Mohalla Radha Nagar, Police Station- Rajiv Nagar, Patna, District- Patna, at present posted at Primary Health Centre, Adhaura, Police Station- Adhaura, District- Kaimur at Bhabua.

.... Petitioner

Versus

1. The State of Bihar
2. The Civil Surgeon-cum-Chief Medical Officer, Kaimur at Bhabua.
3. The Deputy Superintendent-cum-incharge Medical Officer, Sub-Divisional Hospital, Mohania, District- Kaimur at Bhabua.
4. The Incharge Medical Officer, Primary Health Centre, Mohania, District- Kaimur at Bhabua.
5. The Incharge Medical officer, Primary Health Centre, Adhaura, District- Kaimur at Bhabua.

.... Respondents

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Appearance :

For the Petitioner : Mr. Jitendra Kumar Roy, Advocate

For the Respondents : Mr. PANKAJ KUMAR-SC12

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-09-2017

The present writ petition has been filed for a direction to the respondent no. 5 to send the last pay certificate (LPC) of the petitioner to the respondent no. 6 to enable payment of salary; as also for a direction to the respondent no. 3 to take a final decision with regard to letter no. 19 dated 25.01.2017 sent by the respondent no. 6 to the respondent no. 3 returning back the petitioner for his posting to other places on the ground that there is no any additional vehicle at Adhaura for taking work from him.

2. As regards sending the LPC of the petitioner is concerned,



learned counsel for the State invites attention to para 5 of the counter affidavit in which it is stated that the last pay certificate of the petitioner has already been issued and the petitioner is getting salary from where he joined after his transfer. It is further stated in para 4 of the supplementary counter affidavit that vide pay bill no. 124 and 125 dated 03.08.2017 salary of the petitioner has been forwarded for being credited in the account of the petitioner.

3. As regards letter no. 19 dated 25.01.2017 written by the respondent no. 6 requesting the respondent no. 3 to post the petitioner at some other appropriate place is concerned, learned counsel for the respondents submits on the basis of counter affidavit that in this behalf the respondent no. 6 has been show caused by the Civil Surgeon-cum-Chief Medical Officer, Kaimur vide memo no. 778 dated 21.07.2017 and the respondent no. 6 by his letter no. 119 dated 22.07.2017 has submitted his show cause to the effect that under wrong notion the said request was made. Specific statement is made in para 9 of the counter affidavit that since there is sanctioned post of driver in Primary Health Centre, Adhaura, Kaimur against which the petitioner has been transferred there is no need to consider the request made through Annexure-5 of the present writ application and that too when the issuing authority of the said letter has already realized his mistake and submitted his show cause.

4. Learned counsel for the petitioner invites attention to the



pay bill no. 125 at page 22 of the supplementary counter affidavit according to which the period from March 2017 to June, 2017 has been treated as Earned Leave which has been excluded while preparing the pay bill. It is submitted that this has been done arbitrarily and without basis.

5. Having heard the parties and on a consideration of the materials on record, this Court is of the view that the petitioner need not have any apprehension as far as payment of his salary is concerned in view of specific statement made by the respondent no. 3 in the counter affidavit as well as in the supplementary counter affidavit. While the respondent no. 6 in his letter No. 119 dated 22.07.2017 has pointed out that there was no post sanctioned under the head "2210", the respondent no. 3 has made a categorical statement in para 9 of the supplementary counter affidavit referred to above to the effect that there was in fact a sanctioned post of Driver in the Primary Health Centre, Adhaura, Kaimur against which the petitioner has been transferred and that there is no need to consider the request made through Annexure-5 posting the petitioner elsewhere. Moreover, the pay bill nos. 124 and 125 dated 03.08.2017 have been forwarded to the petitioner's account by way of salary and it is expected that the salary. It is expected that the Respondents shall continue to pay salary to the petitioner regularly in future. As regards the period between March and June, 2017 treated as Earned Leave, the petitioner shall be at



liberty to file a representation before the Civil Surgeon-cum-Chief Medical Officer, Kaimur at Bhabua (respondent no. 3) for redressal of his grievances. If any such representation is filed within two weeks from today, the same shall be disposed of within a further period of six weeks, by a speaking order, in accordance with law.

6. The writ petition stands disposed of.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15.09.2017
Transmission Date	N.A.

