

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.678 of 2016
IN
Civil Writ Jurisdiction Case No. 18001 of 2014**

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1. Upendra Kumar Jha son of Late Sudhakar Jha, Resident of village- Manik Chowk, P.O. & P.S. Runni Saidpur, District- Sitamarhi

.... Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health and Medical Education, Govt. of Bihar, Patna
2. The State Health Society, Bihar, Pariwar Kalyan Bhawan, Sheikhpura, Patna
3. The Secretary cum Executive Director, State Health Society, Bihar, Pariwar Kalyan Bhawan, Sheikhpura, Patna
4. The District Magistrate cum Chairman, District Health Society, Sitamarhi
5. The Civil Surgeon-Cum-Member Secretary, District Health Society, Sitamarhi

.... Respondent/s

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Appearance :

For the Appellant/s : Mrs. Y. Madhavi, Advocate

For the Respondent/s : Mr. Pushkar Narain Shahi- AAG-10

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 30-06-2017

Seeking exception to an order dated 8.2.2016 passed by the learned Writ Court in C.W.J.C. No.18001 of 2014, this appeal has been filed under Clause 10 of the Letters Patent.

Petitioner was granted appointment on contract basis as a District Planning Coordinator in Sitamarhi. Vide order dated 12.5.2014, as the contract was not renewed, the writ petition was filed claiming the following reliefs. The 1st relief was for cancelling the order rejecting the appeal filed by the petitioner against non-renewal of the contract and the order terminating the contract of the petitioner on the ground of unsatisfactory work. The 2nd relief



claimed was for payment of honorarium from March, 2013 to September, 2013 i.e. during the period when the petitioner worked on contract basis.

As far as non-renewal of contract is concerned, the learned Writ Court has found that it was a contract for service and as the contract has come to an end and if on account of non-renewal due to unsatisfactory work, the respondents have taken action, the learned Writ Court cannot interfere into the matter as the appointment was only a contract appointment and no vested right accrued to the petitioner for seeking renewal after its expiry. In doing so, the learned Writ Court has not committed any error and to that extent no relief can be granted to the petitioner. However, the petitioner has clearly stated that from March, 2013 to September, 2013 honorarium has not been paid to the petitioner and in reply to the same in para 15 it is stated that from March, 2013 to May, 2013 honorarium to the extent of Rs.53,400/- was paid to the petitioner and from June, 2013 to September, 2013 the same has not been paid. It has been withheld as some enquiry against the contractor Champaran Yuva Kalyan Society of which he was the Incharge-cum-Nodal officer, was pending. Accordingly, it is stated that the amount for the period June to September, 2013 shall be paid after the enquiry into the matter is over.

We are of the considered view that once the respondent



State Government as the principal employer, found that the petitioner had worked for the period in question, there is no justification on the part of the principal employer for withholding payment of honorarium only because some enquiry is pending against the contractor. Respondents are at liberty to proceed against the contractor in accordance with law, but on such ground honorarium cannot be denied to an employee working under the contractor when the principal employer is the State Government.

The appeal is allowed to the extent that the respondent State Government is directed to pay to the petitioner the unpaid honorarium for the service rendered, within a period of two months from the date of receipt/production of a copy of this order and liberty shall be available to the Government to take action as per law against the contractor, if advised.

With the aforesaid, the appeal stands allowed in part and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
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