

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8195 of 2007

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Dr. Sahdeo Prasad, son of Late Bandhu Prasad, resident of Shivapuri Colony,
Near Gayatri Mandir, Mohalla- Ishaqchak, P.S. Mojahidpur, District- Bhagalpur

.... Petitioner

Versus

1. The State of Bihar.
2. The Commissioner-cum-Secretary, Department of Health, Education and Family Welfare, Bihar, New Secretariat, Patna.
3. The Director-in-Chief, Health Services, Bihar, New Secretariat, Patna.
4. The Accountant General, Virchand Patel Path, Patna.
5. The Commissioner of Departmental Enquiry, Bihar, Patna.
6. The Additional Secretary, Department of Health, Education and Family Welfare, Bihar, New Secretariat, Patna.
7. The Deputy Secretary-cum-Chief Vigilance Officer, Department of Health, Bihar, Patna.
8. The Civil Surgeon-cum-Chief Medical Officer, Bhagalpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Abhay Kumar Singh No. 1
Mr. Siddhartha Kumar Singh, Advocates.

For the Respondents : None

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 25-08-2017

This matter has been taken up for hearing and disposal out of turn on the request of learned counsel for the petitioner who submits that orders have been passed by this Court in the case of other similarly situated persons and the case of the petitioner is thus covered thereunder.

2. The present writ petition has been filed for setting aside the Resolution of Health Department contained in Memo No. 191 (9) dated 20.05.2003 contained in Annexure-6 issued by Additional Secretary to Government dismissing the petitioner from Government



service on the ground of sending indents for supply of medicines beyond allotment from M.S.D. Kolkata; and for connected reliefs.

3. The short facts of the case according to the petitioner are that he joined service in the Health Department on 12th of June, 1979. He was posted as Leprosy Eradication Officer at Bhagalpur from 17.07.1987 to 11.02.1997. Thereafter, he was posted at Darbhanga where he worked as Zonal Malaria Officer from 29.07.1997 till he was placed under suspension on 23.07.1998. While posted as Leprosy Eradication Officer, Bhagalpur the petitioner had issued indents in favour of Medicines Store Depot, Kolkata for supply of medicines for distribution to persons suffering from diseases. On the basis of an inquiry, however, the petitioner was suspended by order dated 23.07.1998 and pursuant to a departmental proceeding, the petitioner was finally dismissed from service vide Resolution dated 20.05.2003 (Annexure-6).

4. Learned counsel for the petitioner submits that the petitioner had merely issued indents for supply of the medicines and was not Drawing and Disbursing Officer for payment against supply of medicines. No payment has been made by the petitioner nor has he verified and signed the issue vouchers sent by M.S.D. Kolkata. The payment has been made centrally by the Health Directorate through Book Transfer between Health Department and A.G. Bihar. It is further submitted that in similar circumstances, Dr. Prabodh Jha and Dr.



Rajendra Prasad Singh approached this Court in C.W.J.C. No. 2645 of 2000 and C.W.J.C. No. 13627 of 2004 respectively. Pursuant to the orders of this Court, their cases were reconsidered and they were reinstated in service as evident from the Resolution dated 13.07.2009 (Annexure-20) and Resolution dated 11.10.2007 (Annexure-21).

5. None appears on behalf of the respondents when the matter is called.

6. Having heard learned counsel for the petitioner and on a consideration of the materials on record, this Court finds merit in the writ petition. It would appear that the aforesaid Dr. Prabodh Jha and Dr. Rajendra Prasad Singh were also proceeded against for having allegedly placed indents for medicines from M.S.D. Kolkata in irregular manner in excess of allotment and for which they had been dismissed from service. By Resolutions dated 13.07.2009 and 11.10.2007 (Annexures - 20 and 21) however they were reinstated in service subject to certain penalties inflicted upon them. The facts stated by the petitioner in this regard have not been controverted by the respondents.

7. In the above view of the matter, the impugned Resolution dated 20.05.2003 (Annexure-6) is hereby set aside and the matter is remitted to the Commissioner-cum-Secretary, Department of Health, Education and Family Welfare, Bihar (Respondent No. 2) to consider the case of the petitioner and pass orders afresh in



accordance with law and after grant of an opportunity of hearing to the petitioner expeditiously and preferably within a period of four months from the date of receipt/production of a copy of this judgment.

8. The writ petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	30.08.2017
Transmission Date	N.A.

