

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15870 of 2015

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1. Md. Manzar Imam Son of late Fazilat Hussain resident of Village Mushara ,Post office and Police Station Terhagachh, District Kishanganj.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Department of P.H.E.D. Government of Bihar, Patna.
3. The Secretary, Department of P.H.E.D. Government of Bihar, Patna.
4. The Chief Engineer, P.H.E.D. Government of Bihar Patna.
5. The Chief Engineer (Design) P.H.E.D. Government of Bihar, Patna.
6. The Principal Secretary, Public Health and Engineering Department, Govt. of Bihar, Patna.
7. The Joint Secretary, P.H.E.D. Government of Bihar, Patna.
8. The Superintending Engineer, Public Health Engineering Circle, Purnea.
9. The Executive Engineer, Public Health Engineering Div. Purnea.
10. The Chief Engineer (Mechanical) P.H.E.D. Govt. of Bihar Patna.
11. The Assistant Engineer, Public Health Engineering Subdivisional Dhamdaha Distt Purnea
12. The Block Development Officer, Cum-Executive Officer, Panchayat Samiti Dhamdaha District Purnea

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Najmul Hoda, Advocate

For the Respondent/s : Mr. Madanjeet Kumar, GP 20

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 20-07-2017

Heard counsel for the petitioner as well as the State.

2. It is a clear case where left hand does not know what the right hand is doing and it also creates a feeling within this Court that the State administration has been created to harass the citizens instead of coming to their assistance.

3. The demand or the claim of the petitioner for payment of post retiral dues has a history behind it and that history



cannot be overlooked by this Court because certain right and benefit was conferred by a judicial declaration and pronouncement made by the learned Single Judge in the previous round of litigation, which was CWJC No.1287 of 2008, decided on 04.01.2010. Obviously, none of the authorities, who have filed the counter affidavit or whichever department has taken a decision, are aware of the previous adjudication made by the High Court. The affidavits, which have been filed now, have the effect of overreaching, if not circumventing, the order already passed, which has attained finality and was never challenged by the State before any higher forum.

4. The issue about the petitioner being a work charge employee or not being confirmed stands settled by the observation of the learned Single Judge in following terms :

“ The petitioner was initially appointed in the muster roll establishment and then inducted into the regular establishment. When he was sought to be reverted to the daily wage status, he came to this Court. The respondents then absorbed him on the post of Inspector in the regular establishment. This also was done only after the petitioner filed a contempt application. Once he came to be absorbed by order dated 24.11.2006, there was no occasion for the respondents to pass any fresh orders with regard to the absorption of the petitioner on the post of Keyman-cum-Choukidar, a post stated to be subordinate to that of Inspector. Since the order dated 24.11.2006 was



issued in compliance of certain orders of this Court and in pursuance of which the contempt proceedings stood disposed, this Court is satisfied that thereafter the respondents cannot adopt a different standard and yardstick with regard to the petitioner without first cancelling the order dated 24.11.2006 before issuance of the orders dated 29.11.2006 and dated 11.5.2007. Once the respondents took a particular stand before this Court and in pursuance of which the contempt proceedings stood disposed, the respondents cannot be permitted to renege from the same. Even if it be permissible, it could be done only in a manner sanctioned by law after issuance of a prior show cause notice and the cause shown which does not appear to have been done, as urged on behalf of the petitioner. The impugned orders dated 29.11.2006 and 11.5.2007 are, therefore, not sustainable in their present form. They are accordingly set aside with consequential benefits.”

5. If this is what the learned Single Judge has said about the status of the present petitioner then all the arguments about his being not entitled to pension because he was not confirmed is a bogey, which is required to be rejected forthwith.

6. The writ application is allowed. A direction is issued upon the Principal Secretary, PHED, Government of Bihar as well as the Chief Engineer, PHED, Government of Bihar to authorize and sanction pension and post retiral dues of this petitioner in view of



what has been said by the learned Single Judge in the previous round of litigation, which has been reproduced for ready reference in this part of the order. The settlement of the post retiral dues of the petitioner must be made within a period of four months from the date of production of a copy of this order.

(Ajay Kumar Tripathi, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.07.2017
Transmission Date	NA

