

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4307 of 2002

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Munni Kumari daughter of Sri Chandu Sah, resident of Village Ramghar, PO PS Ramgarh, District Rohtas, Posted as ANM Primary Health Sub Centre Mohania KaimurBhabhua & Ors

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner-cum- Secretary, Health Medical Education and Family Welfare Department, Government of Bihar, New Secretariat, Patna
3. The Additional Commissioner-cum-Special Secretary Health, Medical Education and Family Welfare Department, Government of Bihar, New Secretariat, Patna
4. The Director in Chief, Health Services, New Secretariat, Rohtas Sasaram
5. The District Magistrate, Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. ANIL KUMAR
Mr. Sujit Kumar Verma

For the Respondent/s : Mr. (AAG2)

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 21-09-2017

Petitioners were appointed as Auxiliary Nurse Midwife on various dates by the Civil Surgeon-cum-Medical Officer, Rohtas in the year 1994. Thereafter, when their services were terminated matter came up to this Court in various writ petitions. As far as the petitioners are concerned, in CWJC No. 935 of 1999 and various other cases decided by this Court on various dates the termination effected in the year 1998 was quashed and the petitioners were directed to be reinstated with liberty to join their respective place of posting and liberty was granted to the State Government to pass orders afresh in accordance with law.



Grievance of the petitioners now in this writ petition is that even though they have been permitted to join but for the period they remained out of service salary has not been paid to them. Claiming salary for the intervening period this writ petition has been filed.

The State Government has filed counter affidavit and they say that only a direction in the earlier writ petition was issued for reinstating them and permitted them for joining of service. There being no direction for paying salary for the intervening period, the Government has treated the period on the principles of No Work No Pay and, therefore, no salary is payable to the petitioners.

Having considered the submissions available on record it is clear that while disposing of various writ petitions on various dates as are evident from the documents filed as Annexure 1 and 2 series, this Court after quashing the orders of termination has only directed for reinstatement of the petitioners and permitted for joining with liberty to the respondents to proceed afresh in accordance with law. In none of the cases is there any direction to pay the consequential benefits of back wages or salary for period the employees did not work. In all the cases, finding the principles of natural justice being violated, the orders of termination were quashed and by holding that the allegation of illegal appointment cannot be a ground for termination without conducting any enquiry indulgence have been



made by the Writ Courts. However, at the same time, when reinstatement and direction for joining was given no consequential benefits of payment of salary or other benefits were directed to be paid. On the contrary, liberty was granted to the State Government to proceed afresh in accordance with law. That being the position, once in the earlier writ petition except for reinstatement and joining no direction was made to pay salary for the period the employees remained out of service, no case is made out for granting any benefit of salary for the intervening period.

If the petitioners are aggrieved by non-grant of salary to them when the earlier writ petition, namely, CWJC No. 935 of 1999 and other cases were decided they should have filed appeal against the aforesaid order. This having not been done, now in this writ petition the question of back wages for the intervening period cannot be re-agitated.

Accordingly, finding no ground to make indulgence into the matter, this writ petition stands dismissed.

(Rajendra Menon, CJ)

mrl

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

