

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Miscellaneous Jurisdiction Case No.1559 of 2012**

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1. Dilip Kumar S/O Sri Baidhnath Sah Resident Of Village Pandaul, P.S. Pandaul, District Madhubani, At Present Posted As Clerk At The Primary Health Centre, Bisfi, District Madhubani.
  2. Vijay Kumar S/O Late Kapileshwar Prasad Resident Of Village Sandhwara, P.S. Mashrakh, District Saran, At Present Resident Of Hospital Road, Ward No. 21, Jaldhari Chowk Back Of Sanskrit High School, Madhubani, P.S. Madhubani Sadar, District Madhubani, At Present Posted As Clerk At The Primary Health Centre, Bisfi, District Madhubani.
  3. Sanjit Kumar Choudhary S/O Late Raghubanshi Choudhary Resident Of Village Mishrauli, P.S. Simri, District Darbhanga, At Present Posted As Clerk At The Primary Health Centre, Bisfi, District Madhubani.

.... .... Petitioner/s

Versus

1. The State Of Bihar Through Sri Amarjeet Sinha, The Principal Secretary Cum Commissioner, Health Services, Government Of Bihar, New Secretariat, Patna.
2. Dr. Surendra Prasad, Director In Chief, Health Services, Government Of Bihar, New Secretariat, Patna.
3. Dr. Rameshwar Safi, Regional Deputy Director, Health Services, Government Of Bihar, Darbhanga Division, Darbhanga.
4. Dr. Sudhir Kumar Sinha, Civil Surgeon Cum Chief Medical Officer, Madhubani.
5. Dr. Sambhu Prasad Singh, In Charge Medical Officer, Primary Health Centre, Bisfi, District Madhubani.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Chandra Mauli Chaurashia, Advocate

For the Respondent/s : Mr. Bishwa Bibhuti Kumar Singh, AC to AG

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 05-09-2017**

Inter alia contending that an order passed on 29.09.2011 in LPA No. 1209 of 2004 arising out of CWJC No. 8842 of 1999 has not been complied with this MJC application has been filed for initiating action for contempt.



In the matter of effecting payment of salary to the appellants, the following directions were issued by a Division Bench of this Court while disposing of LPA No. 1209 of 2004:-

“Under the above circumstances, we are of the opinion that it would suffice, if a direction is issued to the respondents to effect payment of salary to the appellants for the period they worked and such payment of salary shall be continued as they are still working till today, but we are not inclined to entertain the prayer that they should be transferred to the vacant posts.

With the above observation this LPA stands disposed off.”

The respondents have filed a detailed show cause. It is their contention that on enquiry conducted and on scrutiny of record they found that the petitioners have never worked for the period in question and, therefore, there is no question of salary to them. They filed a detailed counter affidavit indicating all these factors. However, the petitioners have filed reply to the show cause and have brought on record various documents and material to show that the contentions by the respondents indicated in the show cause are not correct. Direction issued was to effect payment of salary to the appellants for the period they worked.

The dispute now in this contempt application is as to



whether the petitioners have actually worked or not. The respondents say that the petitioners have not worked and the petitioners by filing rejoinder want this Court to hold that they have worked and, therefore, entitled for salary. The dispute with regard to the working of the petitioners or otherwise cannot be adjudicated in this proceeding for contempt. The matter has to be adjudicated in a proper forum and in a contempt application all these questions cannot be gone into. That being so, in the facts and circumstances of the case, we are not inclined to initiate action for contempt. Instead, we grant liberty to the applicants for ventilating their grievance and get adjudication of the claim in accordance with law in an appropriate forum.

In the facts and circumstances, we are not inclined to initiate action for contempt. Accordingly, this applications stands disposed of.

**(Rajendra Menon, CJ)**

**(Anil Kumar Upadhyay, J)**

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