

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

**Letters Patent Appeal No.1337 of 2011**

**In**

**Civil Writ Jurisdiction Case No.9992 of 2003**

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1. The State Of Bihar
  2. The Commissioner Cum Secretary, Department Of Health, Government Of Bihar, Vikash Bhawan, Bailey Road, Patna.
  3. The Director Of Health Services, Government Of Bihar, Patna.
  4. The District Magistrate, Chapra.

... .. Respondents- Appellant/s

Versus

Rajendra Kumar, S/O Late Basudeo Sahay, R/O Prabhu Nath Nagar, Chapra, P.S. Chapra, DISTT. saran at present residing in Laxmi Niwas, C - 15, Patrakar Nagar, Kankarnagh, District – Patna.

... .. Writ Petitioner- Respondent/s

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**Letters Patent Appeal No. 1464 of 2011**

**In**

**Civil Writ Jurisdiction Case No.6882 of 2006**

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1. The State Of Bihar Through The Secretary Personnel And Administrative Reforms Department, Government Of Bihar, Patna
  2. The Deputy Secretary Personnel And Administrative Reforms Department, Government Of Bihar, Patna

... .. Appellant/s

Versus

Uday Prakash Mathur, S/O Late Kamal Bihari Mathur, R/O MOHALLA-Kashipur Town, P.S. AND DISTRICT - Samastipur

... .. WRIT PETITIONER-RESPONDENT/S

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**Appearance :**

For the Appellant/s : Mrs. Nutan Sahay, AC to AAG 12

For the Respondent/s : Mr. Anshay Bahadur Mathur, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**

**ORAL JUDGMENT**

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

**Date : 07-09-2017**

Seeking exception to an order passed on 28.04.2011 in the case of reimbursement of medical allowance to retired employees,



the directions issued by the learned Writ Court for reimbursement of medical allowance is challenged by the State Government in this appeal under Clause 10 of the Letters Patent.

Record indicates that the respondent employees sought reimbursement of medical expenses incurred by them for treatment undertaken right from the year 2002 as the claim from 2002 was pending. It is seen that the pensioners-Society filed writ petition before this Court being CWJC No.7891 of 1995 in which the claim of the persons like the writ petitioners for reimbursement of money spent for indoor and outdoor treatment in recognised institute for treatment without reference by the Government's doctors was pending. The writ application was disposed of on 27<sup>th</sup> March, 1996 directing the State Government to formulate a policy in the light of clause 21 of the Circular governing grant of medical reimbursement to the pensioners. Even though, the direction was issued in the year 1996, the Government did not take any action and when the second writ petition was filed in the year 2003, it was pointed out by the Government that the matter is still under consideration and policy has not been formulated. Faced with the aforesaid situation finding that no policy has been formulated by the State Government in spite of directions having been issued way back in March, 1996, the learned Writ Court issued the following directions:



“I fail to understand that the issue like reimbursement of medical expenses to the petitioners or the Government employees whether can be delayed for such a long period. The order was passed in the Writ Application in the year 1996 that was also affirmed by the Apex Court in the year 1998. We are in the year 2011 and the claim of the petitioners relating to reimbursement of their medical bills incurred in 2001 and 2004-05 are still awaiting for framing of a scheme in this regard. Without going into the intricacies of the policy making powers of the State Government and interference in this matter by the judiciary, I direct the Respondents to reimburse the amounts claimed by the petitioner, which incurred while undergoing treatment for their heart ailment. Petitioners have already represented their matters before Respondents Authorities and that is pending for such a long time. The Respondents Authorities are directed to make reimbursement of entire medical expenses, which the petitioners have incurred in their treatment. Petitioners can not be denied his facilities in anticipation of framing of any scheme by the State Government or its approval by the competent authority. All payments must be made to the petitioners within four weeks from the date of production / communication of this Order.

With the aforesaid observations, both the Writ Applications are allowed.”

Now, the aforesaid direction is challenged and we are informed during the course of hearing that the State Government has formulated the policy on 20<sup>th</sup> of August, 2014 and now, therefore, the writ petitioners would get benefit as per this policy prospectively with effect from 20<sup>th</sup> of August, 2014 and their claim



cannot be considered and decided as directed by the learned Writ Court.

We are unable to accept the aforesaid contention of the State Government. When the State Government way back in the year 1996 was directed to formulate the policy and when the State Government did not take any action and faced with this situation, the writ court directed for the benefit of medical reimbursement to the writ petitioners, we see no reason for interfering into the matter. The State Government’s hibernation right from the year 1996 upto 2014 has resulted in depriving the poor petitioner, a senior citizen, at the fag end of the life, in getting medical reimbursement. We see no reason to make any indulgence into the matter in the peculiar facts and circumstances of the present case. The appeals are, accordingly, dismissed.

**(Rajendra Menon, CJ)**

**( Anil Kumar Upadhyay, J)**

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 11.09.2017 |
| Transmission Date |            |

