

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2176 of 2016

IN

Civil Writ Jurisdiction Case No. 12870 of 2015

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Deva Nand Chaudhary, S/o late Ved Narayan Chaudhary, Resident of Mohalla Bela Garden, P.O. Lal Bagh, P.S. L.N.MU Campus, Dist. Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar.
2. R.K. Mahajan, the Principal Secretary, Department of Health, Govt. of Bihar, Patna.
3. Chandra Shekhar Verma, the Joint Secretary to the Govt., Health Department, Bihar, Patna.
4. Dr. Sri Ram Singh, the Civil Surgeon cum Chief Medical Officer, Darbhanga.

.... Opp. Parties

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Appearance :

For the Petitioner/s : Mr. Amarendra Narayan, Adv.

For the Respondent/s : Mr. Santosh Chandra Bhaskar, AC to GP-11

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 25-05-2017

Heard learned counsel for the petitioner and counsel for the State.

In this case, the petitioner is claiming that the order of this Court dated 20.8.2015 passed in C.W.J.C. No. 12870 of 2015 has not been complied. The relevant portion of the aforesaid order dated 20.8.2015 reads as follows:-

"Heard learned counsel for the parties.

Having regard to the fact that the petitioner wants voluntary retirement and the authorities have sought certain clarification from him as contained in the order dated 23.07.2014, this Court would only give liberty to the petitioner to approach the authorities after fulfilling the requirement mentioned in the order dated 23.07.2014, as contained in Annexure-4.



At this stage, learned counsel for the petitioner submits that the petitioner has already submitted all the documents and information, as required in Annexure-4.

If that be so, the authorities may take an appropriate decision in terms of Rule 74 of the Bihar Service Code and of course in accordance with law.

With the aforementioned observation, this writ application is disposed of."

In the aforesaid order, there is no such mandamus has been issued to grant voluntary retirement to the petitioner, only the wishes has been shown that if the petitioner fulfills the requirement then his case will be considered. In the meantime, the petitioner has been served with the charge-sheet.

Learned counsel for the petitioner submits that the plea that has been taken by the State that he has not applied for the voluntary retirement in a proper channel is completely incorrect as the petitioner has applied directly to the Department for grant of voluntary retirement and he was not required to file an application through the Civil Surgeon cum Chief Medical Officer.

This Court is of the view that as already the petitioner has been proceeded departmentally, this Court cannot proceed for the contempt against the opposite parties. This Court makes it clear that the Department must conclude the proceeding within a period of three months from the date of receipt/production of a copy of this order in case the departmental enquiry is concluded in favour of the petitioner,



the Authority will consider the application of the petitioner for voluntary retirement.

With the aforesaid observation and direction, this application is dismissed and the contempt proceeding is dropped.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
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