

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 6623 of 2004

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Vishwanath Singh Yadav, son of Sri Ram Sundar Singh, resident of Village –
Kauwakhoch, PO – Pahleza, PS – Dehri, District - Rohtas

.... Petitioner/s

Versus

- 1 The State of Bihar
- 2 The Commissioner –cum- Secretary, Road Construction Department, Bihar,
Patna
- 3 The Chief Engineer, NH (Mechanical) Road Construction Department, Bihar,
Patna
- 4 The Superintending Engineer, NH (Mechanical), Road Construction
Department, Bihar, Patna
- 5 Executive Engineer, NH (Mechanical), Road Construction Department,
Muzaffarpur
- 6 Executive Engineer, NH (Mechanical) Road Construction Department,
Khagaria

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Raj Kishore Prasad, Advocate

For the Respondent/s : Mr Birju Pd, GP XIII with
Mr Ravi Kumar, AC to GP XIII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 20-02-2018

Heard counsel for the petitioner and the respondents.

2 The writ petition has been filed praying for payment of arrears of salary from April, 1998 till date. Petitioner claims to have been working regularly and continuously in the respondents' office as Mechanical Assistant.

3 Counter affidavit has been filed on behalf of the State. It is the stand of the State that petitioner was initially appointed on temporary basis for three months vide letter dated 14.12.1994 on the



post of Mechanical Helper and, thereafter, his services were extended from time to time. It is submitted by the respondents in the counter affidavit that the Superintending Engineer (Mechanical), Mechanical Circle, Road Construction Department, Bihar, Patna, vide letter dated 30.07.1998, had directed that the salary of such appointees as the petitioner should be stopped. It is further contended on behalf of the State that since the appointment of the petitioner had been made without following the procedure such as without issuing any advertisement following the roster clearance etc and since the temporary appointment of the petitioner was not against a sanctioned post, the Chief Engineer (Mechanical), Mechanical Wing, Road Construction Department, Bihar, Patna vide letter dated 24.09.1998 (Annexure B) had cancelled all such appointments including the petitioner's appointment. The petitioner has filed no rejoinder to the counter affidavit. The said stand has not been disputed or controverted. However, from the pleadings, it emerges that the appointment of the petitioner was cancelled only in September, 1998. Counsel for the petitioner submits that in any case, the petitioner would be entitled to payment of salary for the period till cancellation of his appointment under letter dated 24.09.1998.

4 As already noticed above, it is the case of the respondents that the petitioner's temporary appointment was cancelled



only by issuance of letter dated 24.09.1998 (Annexure B). Whether the petitioner has actually worked during the said period or not would be an issue to be examined by the respondents and if he has been working during the said period, he is entitled to salary till September, 1998.

5 Counsel for the petitioner prays that the liberty may be granted so that he may approach the authorities staking his claim for payment of salary of the said period.

6 The writ petition is disposed of with liberty, as aforesaid.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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