

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10822 of 2004

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Dr.Satish Panjiyar, S/O Late Raghunath Panjiyar, resident of village/
Mohalla- Bakarganj, P.S. Laheriasarai, District- Darbhanga, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Joint Secretary, Rural Development Deptt., Bihar, Patna.
2. Darbhanga Municipal Corporation, Darbhanga through Chief Executive Officer.
3. The Chief Executive Officer, Darbhanga Municipal Corporation, Darbhanga.
4. The Mayor Darbhanga Municipal Corporation, Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Baxi S.R.P. Sinha, Sr. Adv.
Mr. Lalit Narayan Jha, Adv.

For the Respondent/s : Mr. Kinkar Kumar, AC to SC-9
Mr. Md.Shahnawaz Ali
Mr. Yogesh Kumar, AC to SC-9

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 16-08-2018 The learned Senior Counsel appearing for the petitioner has fairly submitted that he does not wish to press the present writ petition as far as the decision of the District Magistrate regarding termination of the service of the petitioner and others is concerned, faced with the situation that such employees/ officers have been working against unsanctioned post, not sanctioned by the State Government, however, the learned Senior counsel submits that according to well settled principles of law laid down by the Hon'ble Apex Court in a catena of decision reported in (2009) 3SCC 475 (**Syed Abdul Qadir vs. State of**



Bihar); (1995) suppl. 1SCC 80 (Sahib Ram vs. State of Haryana); (1994) 2 SCC 521(Shyam Babu Verma vs. Union of India); (1997) 6 SCC 139 (B.Ganga Ram vs. Regional Joint Director); (2006) 11 SCC 492(Purshottam Lal Das vs.State of Bihar); (2000) 10 SCC 99(Bihar State Electric ity Board vs. Bijay Bhadur); (2006) 11 SCC709 (B.J. Akkara vs. Government of India University)and(1995)suppl. 1 SCC 18 (Sahib Ram vs. State of Haryana) and the one reported in reported in (2015) 4 SCC 334 (State of Punjab vs. Rafique Masih), no recovery can be effected from the petitioner herein as he has already attained the age of superannuation during the pendency of the present writ petition, since there was no misrepresentation or fraud committed by the petitioner herein for the purposes of obtaining employment, whereas on the contrary the Darbhanga Municipal Corporation had itself engaged him for discharging duties as Assistant Medical Officer.

In view of the aforesaid, the present writ petition is disposed of as not pressed, however, with a direction to the respondent Municipal Authorities to pay the admitted outstanding dues of salary of the petitioner as also with a direction not to recover any salary already paid to the petitioner and in case recovery has already been made, then, the authorities shall refund



the amount to the petitioner herein within a period of six months
from today.

(Mohit Kumar Shah, J)

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