

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15444 of 2010

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Uma Shankar Singh S/O Late Ram Bihari Singh R/O Shantinagar, P.O.-
Bikramganj, P.S.- Bikramganj, Distt.- Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Integrated Child Development Scheme, Bihar, Patna
3. The District Magistrate, Siwan, Distt.- Siwan
4. The District Programme Officer, Siwan, Distt.- Siwan
5. The Child Development Project Officer, Hussainganj, Distt.- Siwan
6. The District Magistrate, Rohtas At Sasaram
7. The District Programme Officer, Rohtas At Sasaram
8. The Child Development Project Officer, Chenari, Distt.- Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sri Krishna Ranjan, Adv.

For the Respondent/s : Mr. Anil Kumar, AC to SC-8

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-01-2018

Heard learned counsel for the parties.

In the present case, at the initial stage, the relief was sought for payment of salary for the period 1.4.2005 to 20.8.2008 which was denied on the principle of “No Work No Pay” as he remained absent unauthorizedly and, during pendency of this writ application, the respondent authorities have issued the order dated 30.7.2017 directing for recovery of Rs. 8,30,655.15/- from the petitioner and provided the manner the amount would be recovered from the salary of the petitioner i.e. 50% will be deducted from his salary and the amount would be adjusted against outstanding dues, if



the entire amount will not be recovered during the subsistence of the service period, the rest amount will be recovered from his retrial dues.

The petitioner was working as a Head Clerk, he had fallen ill on account of tuberculosis from 1.4.2005 to 17.3.2008 but, he has submitted that he has filed an application before the C.D.P.O. informing him that he was under treatment in Laxmi Nursing Home, Sasaram (Rohtas) but, he refused to receive the application sent through registered post and wrongly treated the petitioner in unauthorized absence for the aforesaid period. He has further submitted that as he was running under treatment of major disease of tuberculosis, so he is entitled to grant of maximum medical leave with pay as is permissible in law. He has further submitted that the amount which has been shown in Annexure-9 having not deposited by the petitioner which is completely incorrect rather he has deposited the entire amount of Rs. 8,30,655.15/- along with 10% interest and, after that, the Bhabua – Sasaram Central Cooperative Bank has granted No Objection Certificate vide letter no. 312 dated 10.8.2013 (Annexure-12).

In the counter affidavit, the State has taken a plea that the petitioner has remained absent without leave and after holding the departmental proceeding, the final finding has been recorded that he has not deposited the aforesaid amount and, on that account, the order has



been passed against the petitioner vide order dated 30.7.2012.

Having considered the rival contentions of the parties, let the petitioner should produce the relevant documents with respect to his illness before the Director, I.C.D.S., Bihar, Patna, if the Director arrives to a finding that the petitioner was, in fact, under treatment on account of suffering from Tuberculosis, whatever the medical leave is permissible, should be granted to the petitioner. With respect to outstanding dues against the petitioner of Rs. 8,30,655.15/-, the Director will examine the claim of the petitioner with respect to deposit of the amount and if he finds that the petitioner has already deposited the amount, in question, as reflects from the letter no. 312 dated 10.8.2013, the question of deposit of the said amount second time does not arise and, if he finds the aforesaid amount is standing as dues against the petitioner, in such circumstances, the order dated 30.7.2012 will be carried out.

The entire process should be completed within eight weeks from the date of receipt/production of a copy of this order.

Learned counsel for the petitioner submits that the petitioner has not been given any salary after his joining as it appears from the order itself that direction was given to recover 50% of the amount and 50% of the amount was to be paid to the petitioner but, it appears that the order has not been carried out as it appears that the



petitioner has been deprived of 100% of the salary which is not the tenor of the order passed by the disciplinary authority.

If it is found that the petitioner has deposited the entire amount, without delay, the petitioner’s salary will be released in his favour. If any deduction has been made from the salary of the petitioner, it should be returned back forthwith.

If the finding goes in favour of the petitioner, there is no question of any recovery from the retrial dues of the petitioner. At the same time, there should not be any laches in making payment of the retrial dues of the petitioner.

With the aforementioned observations and direction, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.01.2018
Transmission Date	NA

