

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8835 of 2017

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Manoj Kumar Sinha, S/o Late Hanuman Sharan, Assistant, District Board,
Katihar, R/o Quarter No. 1, Gami Tola, Katihar, Town & District- Katihar.

... .. Petitioner

Versus

1. Zila Parishad, Katihar, through its Chief Executive Officer-cum- the Deputy Development Commissioner, Katihar (Bihar).
2. The Chairman, Zila Parishad, Katihar, Town & District- Katihar.
3. The Chief Executive Officer-cum- the Deputy Development Commissioner, Katihar (Bihar).
4. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Purushottam Kumar Jha, Advocate Mr. Avanindra Kumar Jha, Advocate
For the Respondent/s	:	Mr. Ashok Kumar Gupta, A.C. to GP-10
For Zila Parishad	:	Mr. K.B. Nath, Advocate Mr. Durga Narayan, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 31-07-2018

Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the Zila Parishad.

2. In the present case, limited grievance has been
raised that the petitioner was appointed on compassionate



ground as his father was an employee of respondent no.1 and died in harness, but the letter no.373 dated 09.11.1996 declared that the appointment of the petitioner will be subject to approval by the appropriate authority. The proceeding dated 25.07.2009 has been placed for consideration, from where it appears that the service of the petitioner has been regularized and confirmed and the decision was taken for making payment to him.

3. Learned counsel for the petitioner submits that the petitioner was receiving the salary upto 2012, but thereafter the petitioner has been deprived of his salary though he has been discharging his duty to the satisfaction of the concerned officer.

4. Learned counsel for the Zila Parishad submits that the letter dated 09.11.1996 itself shows that the petitioner has been appointed subject to the approval by the appropriate authority. But, the Zila Parishad is a creation of the Constitution after amendment in Chapter-ix of the Constitution of India it is independent corporate body, free to take decision with regard to recruitment and fixation of salary of its employees.

5. Learned counsel for the Zila Parishad further submits that the letter itself speaks that the appointment of the petitioner will be subject to approval of the competent authority,



serious endeavour has been taken by the Zila Parishad to get approval but the approval has not been granted by the competent authority. However, the proceeding dated 25.07.2009 itself reflects that the service of the petitioner has been confirmed. If the competent authority has not responded affirmatively, it is the business of the Zila Parishad to get approval from the competent authority, but the poor employee cannot be deprived of the salary which he is entitled for the work done by him in accordance with law to the satisfaction of the authority concerned.

6. Learned counsel for the Zila Parishad also submits that the petitioner has been paid excess amount than to his entitlement, but this fact has not been mentioned in the counter affidavit, only verbal submission has been made. If the submission is not based upon the pleading in the counter affidavit, the same has no relevance for consideration. Even if the petitioner has been paid excess amount, but he is entitled to admitted amount.

7. In such view of the matter, this Court directs the respondent authorities to make payment of salary to the petitioner within a period of four months from the date of receipt/production of a copy of this order.



8. With the aforesaid observations and directions, this writ petition is allowed to the above extent.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	09.08.2018
Transmission Date	N/A.

