

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.123 of 2016

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1. Vinit Prakash S/o Late Vijay Prakash Sinha resident of village & P.O. - Ratanpur, Police Station - Gidhour, District - Jamui, presently residing in Sector F - 18, P.S. Colony, Kankarbagh, Police Station - Kankarbagh, Patna - 800020.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Development Department Old Secretariat, Bihar, Patna.
2. The District Magistrate Cum Collector, At + P.O. - Munger, P.S. - Kotwali, District - Munger.
3. The Deputy Development Commissioner, At + P.O. - Munger, P.S. - Kotwali, District - Munger.
4. The Regional Provident Fund Commissioner, Employees Provident Fund, R Block, Road No. 6, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Awadheshwar Prasad, Adv. Mr. Upendra Prasad, Adv.
For the Respondent/s	:	Mr. Sri Ram Krishna A.C. to S.C.11
For the EPFO:	:	Mr. Prashant Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 01-05-2018

Heard Mr. Awadheshwar Prasad, learned counsel for the petitioner, Mr. Sri Ram Krishna, A.C. to S.C.11 for the State and Mr. Prashant Sinha, for the Employees Provident Fund Organization.

The petitioner prays for appropriate direction to the respondents to make payment of his salary for the period May, 2012 to 22.9.2014 while he was posted as an Assistant Engineer, District Rural Development Agency, Munger under the respondent No. 3 i.e the Deputy Development Commissioner, Munger, District- Munger.

While Mr. Prasad learned counsel for the petitioner has referred



to representations at Annexure 3 series to submit that the grievance raised by the petitioner has not been disposed of, Mr. Sri Ram Krishna learned counsel for the State in reference to the supplementary counter affidavit filed on behalf of the respondent No.3 more particularly file notings at Annexure-P, the notice of the Deputy Development Commissioner dated 8.8.2012 at Annexure-Q as well the letter of the petitioner dated 9.8.2012 and 1.8.2013 at Annexure-R and S has submitted that since the petitioner did not discharge duty for the period in question that he has not been paid.

The position is contested by Mr. Prasad to submit that any denial of salary can only be based on materials and unless the respondents are able to prove the absence of the petitioner from duty he cannot be denied his dues.

I have heard learned counsel for the parties and I have perused the records.

In the nature of the dispute so raised herein, I deem it proper to direct the Deputy Development Commissioner, Munger to consider the grievance of the petitioner for payment of his arrears of salary for the period May 2012 to September 2014 and dispose of the same in accordance with law after opportunity of hearing to the petitioner. It goes without saying that the petitioner would file a comprehensive representation enclosing documents to support his presence during the



period in question and equally is the obligation on the Deputy Development Commissioner to rest his decision on cogent materials reflecting application of mind. The petitioner would appear before the Deputy Development Commissioner along with the representation and a copy of this order within four weeks from today and when the Deputy Development Commissioner, Munger would proceed to dispose of the matter in the manner stipulated above.

This disposes of the writ petition.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.05.2018
Transmission Date	NA

