

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6598 of 2014

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Dr. Jai Prakash Son Of Late Omkar Nath Prasad Akhauri Resident Of Mohalla -
Yusufganj, P.S. - Laheriasarai, District – Darbhanga

.... **Petitioner**

Versus

1. The State Of Bihar Through The Chief Secretary, Government Of Bihar, Patna
2. The Principal Secretary, Department Of Health, Government Of Bihar, Patna
3. The Joint Secretary, Department Of Health, Government Of Bihar, Patna.
4. The Deputy Secretary, Department Of Health, Government Of Bihar, Patna
5. The Civil Surgeon-Cum-Chief Medical Officer, Patna

.... **Respondents**

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Appearance :

For the Petitioner : Mr. Ram Suresh Roy, Senior Advocate
Mr. Amitabh Sohan, Advocate

For the State : Mr. Narendra Kr.Singh, AC to GP 22

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 16-08-2018

Heard learned Senior counsel for the petitioner and
learned counsel for the State.

The writ petition has been filed claiming arrears of
salary from 12.12.2000 till 6.12.2010. Petitioner was admittedly
absent for the said period.

It is his case that he was absent on account of certain
ailments. The petitioner had earlier approached this Court by filing
C.W.J.C.No. 3773 of 2013 challenging the rejection of his claim
for voluntary retirement. The petitioner had claimed that on the



completion of 20 years of service he was entitled to opt for voluntary retirement with effect from 14.7.2010. This Court, on going through the entire issues, vide order dated 8.1.2014 had been pleased to observe as follows:-

“ In that view of the matter, this Court while upholding the impugned order of rejection of the case of the petitioner for voluntary retirement would only direct the State Government to ensure that a final order in the departmental proceeding against the petitioner must be passed within a period of three months from the date of receipt of this order, inasmuch as, the petitioner has nothing more to add after his filing of the show-cause reply to the enquiry report. It also goes without saying that the prayer of the petitioner for voluntary retirement, if renewed, by him would also depend on the outcome of the departmental proceeding.”

Counter affidavit has been filed by the State in the instant proceedings placing on record the fact that the proceedings has reached the finality as such there is proposal for dismissal of the petitioner pending approval of the Bihar Public Service Commission. The subsequent developments thereafter have not been placed either by the petitioner or by the respondent State.

In view of the fact that entitlement of the petitioner in respect of any claim has already been made dependent upon the final conclusion of the departmental proceedings, prayer for arrears of salary for the arrears of 10 years absence, cannot be allowed at



this stage by this Court. No order need be passed in the writ petition and the same is dismissed.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.8.2018
Transmission Date	NA

