

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.714 of 2015

In

Civil Writ Jurisdiction Case No.15319 of 2008

-
-
1. The State of Bihar through the Chief Secretary, Government of Bihar Patna.
 2. The Principal Secretary, Department of Health and Family Welfare, Government of Bihar, Patna.
 3. The Joint Secretary, Department of Health, Bihar, Patna
 4. The Deputy Secretary, Department of Health, Government of Bihar, Patna.

... .. Appellants

Versus

Dr. Ravi Kant Mishra Son of Late Ram Chandra Mishra, Permanent resident of Mohalla- Vidyapuri, Kankarbag, P.s.- Patrakar Nagar, District- Patna. At Present resident of Kanti Lal Gandhi Hospital Campus, South Park, Bistupur, Jamshedpur, Jharkhand.

... .. Respondent

Appearance :

For the Appellants : Mr. Anshuman Singh, AC to A.G.
For the Respondent : Mr. Mani Kant Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 20-02-2018

After having heard learned counsel for the State as well as learned counsel for the private respondent and keeping in mind what has been stated by the private respondent in paragraph 3 and 4 of the counter affidavit filed today after service, which reads as under :-

“3. That by the order under Appeal the deponent has been given following reliefs :

(i) Dismissal order of the petitioner issued vide Memo No.447(9) dated 15.04.2008 has been set aside.



(ii) Direction has been given to reinstate the petitioner in service forthwith.

(iii) Subsistence allowance must be paid to the petitioner within a period of 6 months.

(iv) Department to consider the petitioner's case for payment of back wages.

4. That, by way of this counter affidavit, deponent undertakes to forgo his claims/reliefs for reinstatement in service, subsistence allowance and all back wages, if the Appellant State agrees to convert the dismissal order into compulsory retirement, in accordance with law."

We are of the opinion that even though the order of the learned single Judge was in favour of the private respondent and granted him maximum relief, in view of the offer made by the private respondent to forego all his claims provided the State converts the order of dismissal, which anyway has been set aside, into one of compulsory retirement, the issue and the controversy can be set to rest and even the State is a gainer since large sum of money, which they anyway would have been compelled to part with, will not be required to be spent now in compliance of the order of the learned single Judge.

The Principal Secretary, Department of Health, Government of Bihar, therefore, is directed to issue an order within a period of four weeks converting the order of dismissal into one of compulsory retirement from the date the said order was passed.



Appeal stands disposed off otherwise not interfering with the
order of the learned single Judge.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	21.02.2018
Transmission Date	N/A

