

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5379 of 2013

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Vijay Tiwary S/O Sri Paras Nath Tiwary R/O Village- Khuthan, P.S.- Obra,
District- Aurangabad

.... Petitioner/s

Versus

1. The State Of Bihar Through The Director-In-Chief Health Services, Bihar, Patna
2. The Special Secretary Government Of Bihar, Department Of Health, New Secretariat, Patna
3. The Civil Surgeon-Cum-Chief Medical Officer, Madhubani
4. The Additional Secretary Grievance Redressal Cell, Health Directorate, Government Of Bihar, Patna
5. The Regional Development Officer Health Services, Darbhanga Division, Darbhanga
6. The Incharge, Primary Health Centre, Madhepur, District- Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajoy Kumar Chakraborty, Advocate

For the Respondent/s : Mr. Tej Bahadur Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date: 31-01-2018

The writ petition under Article 226 of the Constitution of India has been filed by the petitioner for a direction to the respondent authorities to dispose of the representation dated 09.10.2012 filed by the petitioner in compliance of notice dated 17.09.2011 published by the Health Department, Government of Bihar by which grievances and complaint from the aggrieved terminated employees of Health Department was invited for consideration by the department of Health, Government of Bihar published in the Daily Newspaper “Hindustan”. Petitioner was appointed by the competent authority by



Memo dated 30.12.1989 in Additional Primary Health Centre, Bairma, Madhepura, Madhubani District. The advertisement was published on 16.06.1989 by the Civil Surgeon-cum-Chief Medical Officer, Madhubani in Daily News Paper “Hindustan” for 38 posts of Health Educator in District of Madhubani and petitioner also obliged and selected on the post of Health Educator. Petitioner performed his duty continuously for 12 years and he was regularly paid salary and his service book was also opened. A show cause notice was issued with respect to legalities of his appointment and payment of his salary was stopped from 01.05.2011 and same was challenged in C.W.J.C. No. 7809 of 2001 and order of withholding of payment of salary was stayed by order dated 28.06.2001. The service of petitioner was terminated by mass termination order dated 25.05.2001 which was challenged in C.W.J.C. No. 11628 of 2002 which was disposed of on 06.04.2007 with a direction to respondent authorities to consider the representation and pass a reasoned order within four months from receipt of such representation and subsequently a Division Bench of High Court in L.P.A. No. 946 of 2003 by order dated 26.06.2006 directed the Health Department to consider the case of petitioners in light of Uma Devi Case of Apex Court.

It has been contended that case of petitioner is similar situated with that of 91 terminated employees whose cases were



considered by Five Men Committee in the Court dated 20.09.2007. The petitioner filed a representation on 15.04.2009 before the Commissioner, Health Department, Government of Bihar for consideration of this case but same was not considered. However, Health Department published a public notice in Daily News Paper, Hindustan on 17.09.2011 inviting applications from aggrieved terminated employees and to submit complaint before the Additional Secretary, Health Department, Government of Bihar for redressal of individual grievances and pursuant thereto petitioner submitted his representation before the Additional Secretary, Grievance Redressal Cell Department of Health, Bihar, Patna on 09.10.2012 to consider the case of petitioner by Five Men Committee which was constituted pursuant to order of Hon'ble High Court and which considered cases of 91 employees whose services were also terminated but regularized by the Five Men Committee but in spite of several reminders the case of petitioner has not been considered and as such present petition has been filed for a direction to authorities to consider his case as same is being not considered, although his representation is pending since 09.10.2012.

A counter affidavit has been filed on behalf of State of Bihar in which it has been stated that during pendency of writ petition the



representation of petitioner was considered by the Principal Secretary, Department of Health and same was rejected by a reasoned and speaking order dated 24.01.2014 passed by the Principal Secretary, Department of Health, Bihar which has been enclosed as Annexure-A to the counter affidavit, as such, present petition has become infructuous. The petitioner is at liberty to challenge the order dated 24.01.2014 passed by Principal Secretary, Department of Health, Government of Bihar, Patna in accordance with law.

With the said observation and liberty the present writ petition is disposed of.

(S. Kumar, J)

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Uploading Date	
Transmission Date	

