

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12270 of 2011

=====

Vijay Chaudhary S/O Sri Kedar Chaudhary R/O Moh.- Padowapar, Ghughari Tand,
P.O.- Chand Chowra, P.S.- Civil Line, Distt.- Gaya

.... Petitioner

Versus

1. The State Of Bihar Through The Principal Secretary Department Of Health,
Govt. Of Bihar, Patna
 2. The Director-In-Chief Health Services, Govt. Of Bihar, Patna
 3. Deputy Director (T.B.) Health Services, Bihar, Patna
 4. Regional Deputy Director Health Services, Magadh Division, Gaya
 5. Civil Surgeon-Cum-Chief Medical Officer Null Aurangabad
 6. In-Charge Medical Officer Primary Health Centre, Nabinagar, Aurangabad
- Respondents
- =====

Appearance :

For the Petitioner/s : Mr. Navin Kumar

For the Respondent/s : Mr. Nivedita Nirvikar GP3

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT

Date: 16-03-2018

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

2. The petitioner in the present case has challenged the order of termination dated 30.04.1993 passed by the then Health Commissioner and Secretary, Health, Medical and Family Welfare, Bihar, Patna vide letter no. 528 dated 30.04.1993, by which the services of the petitioner has been terminated, which is mentioned in the letter no. 412 dated 28.08.2009, issued by the then Medical Officer In-charge, Primary Health Center, Nabinagar, Aurangabad, as contained in Annexure-4 to the writ application.

3. The petitioner has also prayed for a direction



to the respondents to reinstate him in service and to pay him salary which is due from 01.12.1992 to 31.08.2009, i.e., the date when he claims knowledge of termination.

4. Learned counsel for the petitioner submits that the petitioner was appointed on Class-IV post (*Mali*) against sanctioned post on regular basis by the order of the then Deputy Director, Health Services (T.B.) Mr. (Dr.) A.K. Mallik in the year 1992 and was transferred to District T.B. Center, Aurangabad vide order no. 854 dated 28.04.1992 passed by the then Deputy Director, Health Services (T.B.) Bihar, Patna. He had received salary for the month of September, October and November, 1992, but thereafter he has been forbidden to sign the attendance register. The writ application is totally silent as to what happened after November 1992 till 25.02.2009, as according to the petitioner, he submitted his representation to the In-charge, Medical Officer, Nabinagar, Aurangabad, Commissioner, Magadh Division on 25.02.2009 and 03.03.2009.

5. The petitioner received a letter as contained in Annexure-3 from the Additional Chief Medical Officer, Aurangabad and thereafter the Additional Chief Medical Officer is said to have issued Annexure-4, wherein it is stated



that in the light of memo no. 528 dated 30.04.1993, the services of the petitioner has been terminated.

6. Learned counsel for the State points out from the statements made in the counter affidavit that earlier all the terminated employees like the petitioner who were terminated by common order contained in letter no. 528 dated 30.04.1993 had moved this court against their termination order and after long legal battle their termination order was affirmed up to the Hon'ble Supreme Court of India. The said order has been passed in the case of **Ashwani Kumar and Ors. vs. State of Bihar** reported in **1997 (2) SCC 1**. The common order of termination has attained it's finality.

7. Learned counsel has pointed out from paragraph 8, 9 and 10 of the counter affidavit that the petitioner has not even pleaded in the writ application that he had applied pursuant to the advertisement no. 01/1997. It has also been pointed out that the common order dated 26.04.2010 passed in CWJC No. 18447/2009 (**Umesh Prasad vs. State of Bihar and Ors.**) and analogous matters has already been set aside by the Hon'ble Division Bench of this court vide judgment and order dated 24.09.2014 passed in LPA No. 566/2010.



8. Having heard learned counsel for the parties and on perusal of the records, this court finds that this petitioner is one of the appointees of Dr. A.K. Mallik, who had made several illegal appointments on mass scale. The matter is covered by the earlier round of proceedings which went up to the Hon’ble Supreme Court in different writ application wherein the common order of termination was under challenge.

9. The issue has already attained finality. The petitioner has no case at all for the reliefs prayed in the writ application. The writ application is devoid of merit. It is, accordingly, dismissed.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.03.2018
Transmission Date	NA

