

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19978 of 2014

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Kamal Deo Pandey, son of Late Gopal Pandey, resident of village- Singhi, P.O.-
Mohannadpur, P.S.-Manjhi, District- Saran Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home (Special) Department, Government of Bihar, Patna.
 2. The Principal Secretary cum Commissioner, Finance, Government of Bihar, Patna.
 3. The Additional Secretary to the Government of Bihar, Home (Police), Bihar, Patna.
 4. The Director General of Police (Wireless), Home Police Department, Patna.
 5. The Inspector General of Police (Wireless), Home Police Department, Patna.
 6. The Additional Police Director General, Technical Services and Communication, Bihar, Patna.
 7. The Joint Secretary to the Government of Bihar, Home, Police Department, Patna.
 8. The Deputy Secretary to the Government of Bihar, Home, Police Department, Patna.
 9. The Deputy Director, Home (Police), Department, Government of Bihar, Patna.
 10. The Assistant to Inspector General of Police (Wireless), Home Police Department, Patna.
 11. The Superintendent of Police (Wireless), Bihar, Patna Respondents
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Appearance :

For the Petitioner : Mr. Alok, Advocate with
Mr. Jitendra Kumar Rai, Advocate
For the Respondents : Mr. Apurva Kumar, AC to GA 4.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 08-01-2018

Heard learned counsel for the petitioner and the State.

2. The petitioner, who was initially appointed as a Constable (Wireless) in the Mizoram police. Sometime in 1988, was released on deputation by the Mizoram police to the office of the Director General of Police, Bihar. Subsequent upon his deputation, he was working in the State of Bihar as Literate Constable in the Bihar Police (Radio). After sometime, when the



issue was discovered regarding petitioner's deputation as irregular/illegal, respondent officials issued order for repatriation to his service back to the Mizoram police. A series of repatriation orders was issued thereafter by the authorities in the State of Bihar. Finally, order dated 30.6.2007, which is Annexure 12 to the writ petition, came to be issued by the office of the DGP, Bihar stating that the petitioner's continuance in the Bihar police Radio was wholly illegal and his service should immediately be sent back to the Mizoram police. Being aggrieved by the aforesaid direction, the petitioner filed a writ petition bearing C.W.J.C.No. 8249 of 2007 which was disposed of on 2.4.2010. While disposing of the writ petition, this Court had specifically recorded as follows:-

“A person on deputation has no right to continue on the deputed post except in terms of the deputation order. Repatriation is a risk that he takes. Therefore, the petitioner can not stake a claim simplicitor to continue in the services of the State of Bihar by deemed absorption. If his joining on deputation in the State of Bihar was conditional to approval of the State of Bihar, and the approval was not forthcoming or is denied as presently appears to be the case, he has no defence against his repatriation. To that extent, this Court finds no reason to interfere with the order dated 30.6.2007.”

3. However, noting the peculiar circumstances arising out the petitioner's deputation from a different State police service in



the State of Bihar, this Court considering the fact that petitioner cannot be saddled with the responsibility of creating the peculiar circumstance and while declining to interfere with the said order, the Court made following observations:-

“This Court, therefore, holds that prima facie the petitioner has no legal right to claim absorption in the State of Bihar. But he cannot be left nearly 21 years in the lurch after to find himself neither in the services of the State of Bihar or the Mizoram Police. The senior officials who took the decision to absorb him conditionally are also answerable for their conduct. The petitioner cannot be the pawn alone to be slashed in this legal imbroglio.

This court, therefore, directs the Principal Secretary, Home (Special) Department, Government of Bihar to establish contact with the Director General of Police, Mizoram. If the Police authority at Mizoram is willing to accept the petitioner in the Mizoram Police, the petitioner must go back. At this stage he could not raise any objection with regard to loss of seniority etc. in the Mizoram Police. That is a burden he must bear and for which he is also responsible.

If the Mizoram Polcie declines to accept him, he has to be absorbed in the State of Bihar Police Service. In that event he obviously again has to forego his seniority to be re-determined from the date of the present order.

Let this order be complied with within a maximum period of three months from the date of receipt/production of a copy of this order before the Principal Secretary, Home (Special) Department, Government of Bihar, who is expected to adequately communicate this order to the authority at Mizoram who shall equally be bound for expeditious compliance of the order within the time fixed.

The impugned order dated 30.6.2007, shall not be an obstacle or impediment for the



parties in any manner for such fresh decision.

The issue of any salary has to be considered by the appropriate authority at Mizoram or in the State of Bihar, thereafter in accordance with law, if the petitioner so represents.

The application stands disposed of.”

4. In compliance of the aforesaid directions, the State of Bihar has issued the impugned order dated 25.6.2010, whereby petitioner's service has been absorbed with effect from the date the order was passed in the writ petition bearing C.W.J.C.No. 8249 of 2007, i.e., with effect from 2.4.2010.

5. The petitioner has now approached this Court for further orders claiming that he is entitled to benefits of all the past services rendered by him prior to his absorption, which has been made in compliance of the said order passed in C. W. J. C. No. 8249 of 2007. The said order, passed by this Court on earlier occasion, was of limited nature arising out of peculiar circumstance created by the petitioner and senior officers of the State of Bihar. Since the said order clearly takes notice of the fact that his continuance in the State of Bihar was highly irregular and that this Court had expressed this opinion that the order dated 30.6.2007 was not interfered with, the petitioner cannot claim any further benefit than what has been directed under the orders and directions issued in the said writ petition. By issuing order dated 25.6.2010,



Annexure 1 to the writ petition the respondents have made available to the petitioner the benefits of the order dated 2.4.2010, passed in his favour in C.W.J.C.No. 8249 of 2007. No further order needs to be passed in the instant writ petition.

6. Accordingly, this writ petition stands dismissed.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	
CAV DATE	NA
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