

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11207 of 2014

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Dr. Arbind Kumar Sinha s/o Sri Bidya Binod Sinha R/O Vill - Birjumilki, P.S.
Harnaut, District - Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Health and Family Welfare Department, Government of Bihar, Patna.
3. The Secretary, Health and Family Welfare Department, Government of Bihar, Patna.
4. The Director, Health and Family Welfare Department, Government of Bihar, Patna.
5. The Deputy Secretary, Department of Health and Family Welfare, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kumar Singh, Advocate

For the Respondent/s : Mr. Manoj Kumar Ambastha, SC 26

Mr. Subodh Kumar, AC to SC 26

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 09-01-2018

Heard counsel for the petitioner and the State.

2. The petitioner who was serving as Medical Officer in the ESI dispensary, Digha, Patna. His services was returned to the Health Department from the Department of Labour Employment and Training, Govt. of Bihar under notification no. 382 dated 10.10.2001. Pursuant to some orders passed in C.W.J.C. No. 13987 of 2001 and in compliance thereof, the petitioner has submitted his joining in the Health Department on 04.06.2002. From 04.06.2002 he remained in the Department awaiting the posting. Thereafter his posting as



Medical Officer to the Primary Health Centre, Kanti, Muzaffarpur was done on 19.05.2003 under notification dated 19.05.2003 bearing no. 1082(2). Pursuant thereto he joined at the Primary Health Centre, Kanti, Muzaffarpur.

3. The petitioner's grievance in the instant writ petition is that though he remained in the Department awaiting posting since 04.06.2002 till 19.05.2003, the arrears of salary and other benefits for the period 04.06.2002 to 31.10.2002 have not been paid to him.

4. Counter affidavit has been filed by the State wherein in paragraph 8 it is stated that the attendance is to be made at the place where the said employee is directed to report. Raising dispute regarding non-marking of attendance in the Department, his salary for the period 04.06.2002 to 31.10.2002 has been resisted.

5. The petitioner has brought on record Annexure 7 to the writ petition which is order of the Department dated 06.06.1992. Relying on the same he submits that when the medical officers are directed to report in the Department, they are not required to mark attendance. The same is not denied or disputed in the counter affidavit.

6. Apart from this, the other submission of the petitioner is that if he had been kept awaiting for posting from the period 04.06.2002 to 19.05.2003, he cannot be denied any salary or



consequential benefits in respect of the period. Moreso, in view of the said order dated 06.06.1992 of the Department (Annexure 7).

7. Counsel for the petitioner submits that under similar circumstances this Court has directed for paying the arrears of salary and other consequential benefits in respect of one Dr. Prakash Chandra Chaudhary by order dated 19.03.2004 which has been brought on record as Annexure 6 of the writ petition.

8. The order dated 01.12.2006 rejecting the petitioner's claim for arrears of salary for the said period 04.06.2002 to 31.10.2002 is therefore, not sustainable in view of the Department's own order dated 06.06.1992 wherein it is stipulated that when Medical Officers are awaiting posting in the Department they are not required to make attendance and in view of the fact that in respect of other similarly situated, this Court has passed orders for paying the arrears of salary under order dated 19.03.2004 passed in C.W.J.C. No. 11184 of 2003.

9. The order dated 01.12.2006 insofar as it rejects the said claim of the petitioner is therefore, quashed.

10. Considering the aforesaid submissions and the order of the Department dated 06.06.1992 as well as the order of this Court passed in C.W.J.C. No. 11184 of 2003, this Court is of the opinion that the petitioner would be entitled to payment of his salary since



04.06.2002 to 31.10.2002 along with all other consequential benefits.

11. The writ petition is allowed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	11.1.2018
Transmission Date	

