

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16556 of 2017

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Bijay Kumar Singh, Son of Sri Mohan Singh, resident of Quarter No. B-151, Buddha Colony, P.S.- Buddha Colony, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Principal Secretary, Labour Resources Department, Govt. of Bihar, Patna.
4. The Commissioner, Department of Labour Resources, Govt. of Bihar, Patna.
5. The Director, Public Relation Department of Information and Public Relation, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y.V.Giri, Sr. Advocate Mr. R.P. Chaudhary, Advocate Mr. Rakesh Ranjan, Advocate
For the State	:	Mr. Shilpi Keshari, AC to AAG-10

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
CAV JUDGMENT

Date : 31-07-2018

The present case has been filed for directing the respondents to make payment of salary and allowances for the period 09.04.2007 to 31.03.2017 to the petitioner herein for the post of Chairman, Monitoring Committee, Manisana Wage Board, Bihar, Patna, held by him.

2. The brief facts of the case are that the petitioner is the Chairman of Multi State Co-operative Land Development Bank Ltd., Bihar-Jharkhand. The petitioner was appointed as Chairman of the State Employment Committee, Bihar, Patna by



a notification dated 09.04.2002 and pursuant to various orders passed by this Court, i.e. the order dated 03.07.2015 passed in C.W.J.C. No. 16352 of 2014, as upheld by an order dated 16.05.2016 passed in L.P.A. No. 187 of 2016, as further upheld by dismissal of the S.L.P. bearing S.L.P. (C) No. 20151 of 2016 by the Hon'ble Supreme Court by an order dated 01.08.2016, as also upon passing of various orders in the contempt petition filed by the petitioner herein, the petitioner was paid remuneration in terms of Clause 7 of the resolution of the Government of Bihar dated 12.02.1985 for the services rendered by the petitioner as Chairman, State Employment Committee, Bihar.

3. It is further case of the petitioner that when he was working as Chairman, State Employment Committee, Bihar, Patna, he was appointed as Chairman of a three Member Monitoring Committee constituted for implementing the recommendations of the Manisana Wage Board from block level to district level's working journalists vide notification dated 28.08.2004 issued by the Labour Employment and Training Department, Government of Bihar. The petitioner has averred in his writ petition that since the petitioner has already received salary for the period 09.04.2002 to 08.04.2007 while working as



Chairman, State Employment Committee and in the meantime, he was appointed as Chairman of the Monitoring Committee, Manisana Wage Board vide notification dated 28.08.2004, he is only claiming salary for the period 09.04.2007 to 31.03.2017 as far as his appointment as Chairman of the Monitoring Committee, Manisana Wage Board is concerned. It is further submitted that the petitioner had filed a representation before the Respondents on 31.03.2017 for making payment of his salary and allowances, as aforesaid, but, to no avail.

4. The learned senior counsel for the petitioner has submitted that the Deputy Secretary, Labour Employment and Training Department, Bihar, Patna has written a note to the Labour Commissioner, Bihar dated 03.09.2004 stating therein that the petitioner herein is working on the post of Chairman, State Employment Committee, Bihar, hence, he would be entitled to the same salary, allowances and other facilities on the post of Chairman, Monitoring Committee, Bihar, Patna which would be fixed for the post of Chairman, State Employment Committee. It is submitted that since the salary and allowances have already been fixed for the post of Chairman, State Employment Committee pertaining to the petitioner herein, the Respondents are required to be directed to pay the same salary



and allowances to the petitioner herein for the period the petitioner has held the post of Chairman, Monitoring Committee i.e. for the period 09.04.2007 to 31.03.2017.

5. Per contra, the learned counsel for the Respondents has submitted that the post of Chairman, Monitoring Committee is an honorary post and the notification by which the petitioner was appointed, does not provide for any salary / allowances to be paid for the said post. It has further been submitted that neither the petitioner had ever reported for duty / joined on the said post in terms of the said notification dated 28.08.2004 nor he had discharged any duty nor he had ever presided over any meeting of the said Committee. Moreover, no provision or ground has been shown by the petitioner in support of his claim for payment of salary and allowances on the post of Chairman, Monitoring Committee.

6. I have heard the learned counsel for the parties and perused the materials on record.

7. It is apparent from the notification dated 28.08.2004, by which the petitioner was appointed as Chairman of the three Man Manisana Wage Board Committee, that no remuneration was payable to the petitioner herein, hence, apparently, the petitioner was entrusted with the said prestigious work on an



honorary basis. Moreover, the petitioner has not been able to controvert the specific and categorical averments of the Respondents in the counter affidavit to the effect that the petitioner had neither joined his duties as Chairman of the Monitoring Committee nor had discharged such duties nor had ever presided over any meeting of the said Committee, by bringing on record contemporaneous documents. It may be appropriate to state here that the employment of the petitioner as Chairman of the State Employment Committee was made by a notification No. 148 dated 09.04.2002 wherein itself, it was stated that the duty and responsibility of the Committee shall be as per the departmental Resolution No. 478 dated 12.02.1985 which postulated under Clause 7 that the Chairman of the Committee, shall be entitled to all such facilities as is available to the Chairman of the Committee of the Mica Wage Board, Shri I.N.Thakur. In such view of the matter, the learned Single Judge as also the learned Division Bench of this Court, in the earlier round of litigation, initiated at the behest of the petitioner for grant of remuneration on the post of Chairman, State Employment Committee, held that the petitioner is entitled to remuneration in terms of Clause 7 of the aforesaid resolution dated 12.02.1985 i.e. similar to that of the Chairman of the Mica



Wage Board, however, in the present case, no such reference regarding payment of any sort of salary or allowances has been made in the notification dated 28.08.2004 whereby and whereunder the petitioner has been appointed as the Chairman of the Manisana Wage Board Monitoring Committee, hence, the petitioner is not entitled to any remuneration since apparently, the petitioner has been conferred with the said prestigious post on an honorary basis. In fact, the petitioner has failed to bring on record any request made by him to the respondents to fix his remuneration on the said post of Chairman, Manisana Wage Board Monitoring Committee pursuant to the issuance of the notification dated 28.08.2004 and only belatedly, which is prior to filing of the present writ petition, a representation is stated to have been filed by the petitioner which is dated 31.03.2017, however, no proof of the same having been served on the respondents, has been brought on record, thus, the present writ petition also suffers from the vice of delay and laches, although, the present writ petition is fit to be dismissed on the sole ground that the notification dated 28.08.2004, by which the petitioner was appointed as Chairman of the Manisana Wage Board Monitoring Committee, nowhere envisages payment of any remuneration, hence, in absence of the petitioner being vested



with any legal right, no writ can be issued. Moreover, the respondents have categorically averred that neither the petitioner assumed his office nor joined on the said post of Chairman, Manisana Wage Board Monitoring Committee nor he had discharged any duties nor ever presided over any meeting of the said Committee which has not been controverted by the petitioner, by bringing on record any proof to show that the said averments made by the respondents are not correct, hence, on this ground as well, the writ petition is fit to be dismissed.

8. Now coming to the submission made by the learned senior counsel for the petitioner that the Deputy Secretary, Labour Employment and Training Department, Bihar, Patna had made a noting to the Labour Commissioner, Bihar stating that the petitioner would be entitled to remuneration for the post of Chairman Monitoring Committee, Bihar as would be fixed for the post of Chairman, State Employment Committee, hence, the petitioner is entitled to the same remuneration as has been fixed for the post which was being held by the petitioner i.e. Chairman of the State Employment Committee, it is stated that the said argument advanced on behalf of the petitioner is misplaced and devoid of any merit inasmuch as firstly, the authenticity of the said document brought on record at the last



moment by way of Annexure-2 to the reply to the counter affidavit filed by the respondents, is doubtful and moreover, it is a settled law that merely, writing something in the file or making a note in the written note-sheet does not amount to an order. Before something amounts to an order of the State Government, two things are necessary i.e. (i) the order has to be expressed in the name of the Governor or (ii) the same has to be communicated to the beneficiary or the person, who would be effected by the said order. Reference, in this regard, be had to a judgment of the Hon'ble Apex Court passed in the case of ***Bachhittar Singh Vs. State of Punjab and Another, reported in AIR 1963 SC 395***. In the instant case, the notification dated 28.08.2004 whereby and whereunder the petitioner has been appointed as Chairman of the Manisana Wage Board Monitoring Committee has been issued under the orders of the Governor of Bihar, hence, any amendment or addition to the said notification, even by way of fixing the remuneration of the said post of Chairman is definitely required to be notified by a notification issued under the orders of the Governor of Bihar. In such view of the matter, the aforesaid submission made by the learned senior counsel for the petitioner is not only misplaced but also devoid of any merit.



9 For the reasons mentioned hereinabove, I find that the present litigation initiated at the behest of the petitioner is a fortuitous litigation which is devoid of any merit.

10. Having regard to the facts and circumstances of the case as also the discussions made hereinabove, there is no merit in the present writ petition, accordingly, the same is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	02.05.2018
Uploading Date	31.07.2018
Transmission Date	NA

