

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18165 of 2017

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Lt. Col. Durga Pada Samanta, Son of Late Gadadhar Samanta, resident of Hari Narayanpur, Nagerpar, P.O.- Baje Pratapur, Police Station- Burdwan in the district of Burdwan (W.B.).

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Defense, Government of India, New Delhi.
2. The Secretary, Ministry of Defense, Government of India, New Delhi.
3. The Director General Re-Settlement, Ministry of Defence, Government of India, New Delhi.
4. The State of Bihar through the Principal Secretary, Department of Health and Family Welfare, Government of Bihar, Patna.
5. The Principal Secretary, Department of Health and Family Welfare, Government of Bihar, Patna.
6. The Director, Health Services Government of Bihar, Patna.
7. The Superintendent, Jawahar Lal Nehru Medical College and Hospital, Bhagalpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Navin Sharma, Adv.

Mr. Sunil Kumar, Adv.

For the Respondent : Mr. S.D. Sanjay, Addl. S.G.

Mr. Anshay Bahadur Mathur, CGC.

For the State : Mr. Binod Kumar Yadav, Adv.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

Date: 07-08-2018

Heard learned counsel for the petitioner and learned



counsel appearing on behalf of the State.

Petitioner has prayed for a direction that the payment of salary to the Security Guards/Supervisors deputed in the premises of Jawahar Lal Nehru Medical College and Hospital, Bhagalpur in pursuance to the agreement dated 05.09.2016 at the enhanced/revised rate as per the revision of the rate provided by the DGR Guideline, New Delhi be made. Petitioner also seeks a direction to quash the tender notice dated 22.11.2017 issued by the respondent no. 7, the Superintendent, Jawahar Lal Nehru Medical College and Hospital, Bhagalpur and not to terminate the agreement between the petitioner and respondent no. 7. So far as the second relief of quashing of the tender notice dated 22.11.2017, the petitioner does not press the same. Now the only question is of payment of salary to the Security Guards with and without arms and Supervisors which were engaged by the petitioner in the Jawahar Lal Nehru Medical College and Hospital, Bhagalpur in pursuance to the agreement dated 05.09.2016.

From perusal of the agreement, it is evident that it was for a period of two years. The rates as per the DGR guidelines with specific mention at clause 4 of the said agreement wherein the rates of the Security Guards with arms, without arms and



Supervisors have been specifically mentioned and at clause 4 (3) it has been specified that the provisions of DGR rates/Minimum Wages Act, Contract Labour Act and other statutory provisions like Provident Fund Act, ESI Act, Bonus, Gratuity, Leave, Relieving Charges, Uniform and Allowance thereof and any other charges applicable from time to time will be given. He submits that now DGR rates have been amended w.e.f. 01.06.2016 and another amended new rate has come w.e.f. 19.01.2017 but the petitioner is not being paid as per the new DGR rates.

Learned counsel for the State, however, submits that funds have to be released from the Health Department and as soon as allotment is received from the Government, all the pending dues will be paid to the petitioner. A communication to the petitioner is by memo no. 4723 dated 29.12.2016 to the said effect is Annexure-C to the counter affidavit.

Considering the facts and circumstances, this writ application is disposed off with a direction to make payment to the petitioner and if the DGR rates are applicable to make payment as per the DGR rates within a period of four months from the date of receipt/production of a copy of this order. The calculation chart of pending dues will be furnished to the



respondent no.7 within a period of 15 days from the date of receipt/production of a copy of this order.

(Nilu Agrawal, J)

Devendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.08.2018
Transmission Date	NA

