

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2751 of 2016

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Krishna Murari Pathak Son of Late Ram Badan Pathak, resident of Village- Bhawadih, Police Station- Kargahar, District- Rohtas at Sasaram, Retired as Head Clerk in the Office of the Assistant Registrar, Cooperative Societies, Circle Aurangabad Bihar.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Secretary, Department of Cooperative, Govt. of Bihar, Patna.
3. The Registrar, Cooperative Societies, Govt. of Bihar, Patna.
4. The Joint Registrar, Cooperative Societies, Magadh Division, Gaya.
5. The Assistant Registrar, Cooperative Societies, Aurangabad Bihar.
6. The District Cooperative Officer, Aurangabad Bihar.
7. The District Audit Officer, Co-operative Societies, Aurangabad Bihar.
8. Sri Vinod Kumar, Son of not known, presently posted as Clerk in the office of the District Audit Officer, Cooperative Societies, Aurangabad (Bihar)

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Prashant Sinha
		Mr. Uday Pratap Singh
For the Respondent/s	:	Mr. Manish Kumar, AC to AAG 6

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 14-03-2019 Heard learned Counsel for the petitioner and the

learned Counsel for the respondent State.

The petitioner confines his prayer to the issue of
payment of salary for the period 10.3.2010 to 31.10.2010.

It is submitted that the petitioner was transferred
on a post lower than the post, on which he was earlier posted, by
an incompetent authority, and therefore, he had challenged such
transfer before this Court. In terms of orders passed in his writ



petition, CWJC No. 6805 of 2010 he had not submitted his joining till 3.8.2010.

The issue is apparent from the order of this Court in CWJC No. 6805 of 2010 dated 3.8.2010, that in view of the interim order operating between 30.4.2010 to 3.8.2010 the petitioner had not joined on the transferred place of posting. The issue of payment for the said period, however, was left to be examined by the Registrar Cooperative Societies. The Registrar, Cooperative Societies under order dated 4.11.2010 (Annexure 6) has found that transfer of the petitioner, under order dated 3.2.2010, was not in accordance with law.

In the circumstances this Court would find that since the transfer was not in accordance with law and the petitioner had not joined his transferred place of posting in view of the interim order in the proceedings arising out of CWJC No. 6805 of 2010 up till 3.8.2010, the petitioner cannot be denied his due salary for the said period.

The claim for salary, however, spills over beyond the date of High Court's order i.e. 3.8.2010. In this regard, the petitioner had submitted his explanation for delay in joining by asserting that he could not join, as the place on which the petitioner was to join, was not vacant to facilitate his joining.



This issue, however, has not been examined by the respondents.

In the circumstances, this Court would direct that salary for the period 3.2.2010 up till 3.8.2010 be paid to the petitioner as for non joining in the said period the petitioner has relied upon interim order of this Court dated 30.4.2010 passed in CWJC No. 6805 of 2010. For the period thereafter, the petitioner should approach the Registrar, Cooperative Societies by making a detailed representation as to how he was prevented from joining the transferred place of posting at Aurangabad. The Registrar Cooperative Societies would be obliged to consider the same with reference to the relevant records by a reasoned and speaking order.

The petitioner should approach the Registrar, Cooperative Societies, within a period of four weeks. The Registrar Cooperative Societies (respondent No. 3) would be obliged to consider and dispose of the petitioner's claim and pay dues found admissible to the petitioner within a period of three months thereafter.

The petitioner's Counsel submits that he would also be approaching the Registrar, Cooperative Societies, claiming wages for the higher post of Head Clerk on which post, he asserts, he was discharging duties while he was substantially



posted. This issue has not been earlier raised before the authorities. If the same is done, it is required to be considered by the concerned authorities in accordance with law.

The writ petition stands disposed of.

(Madhuresh Prasad, J)

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