

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 3161 of 2016

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Malti Devi wife of Shiv Bachan Ram Tatwa of Village Choin P.S Murar,
District Buxar. **... Petitioner**

Versus

1. The State Of Bihar through the chief Secretary, Government of Bihar, Patna
 2. The Chief Engineer, Water Resources Department, Dehri on Sone Rohtas.
 3. Superintending Engineer, Water Resources Department, Sone Nahar Anchal Arrah.
 4. Executive Engineer, Water Resources Department, Bikramganj, Rohtas.
 5. Sub- Divisional Officer, Mahendra Chaudhary Sidhupur Camp Nawa Nagar District- Buxar.
 6. The Junior Engineer, Sone Nahar Section Rampur, P.S. Nawa Nagar, District Buxar.
 7. The District Magistrate, Buxar **... .. Respondents**
- =====

Appearance :

For the Petitioner : Mr. Binoy Kumar Sinha-1, Advocate
For the State : Mr. Shailesh Kumar, AC to GP 5

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 04-04-2019 Heard learned counsel for the petitioner as well as

learned counsel for the State.

Claim in the writ petition is for payment of salary from June, 2004 allegedly due to petitioner's husband. This writ petition has been filed in the year 2016. In the counter affidavit, respondents have disclosed that for the same relief husband of the petitioner had earlier filed C.W.J.C.No. 10291 of 2006 which was dismissed as withdrawn. When he again approached this Court for the same relief, the writ petition was dismissed being barred by principle of constructive *res judicata* on 7.4.2016 in C.W.J.C.No. 10050 of 2015. Instant writ petition is the third writ petition claiming the same. Relief in the earlier writ petition was dismissed on the ground of constructive *res*



judicata.

This writ petition itself is not maintainable. This Court would also consider the fact placed on record by the respondents that petitioner's husband has been denied salary since 2004 since subsequent to order of transfer in March, 2004 the petitioner never joined service at the transferred place. Punishment was also imposed under letter dated 7.12.2006 (Annexure D of the counter affidavit) and as such the petitioner has not been found entitled to any salary. Order of punishment also has never been assailed by the petitioner. Since he has not challenged the order of termination which also contemplates 'no work no pay' for the period of absence since 2004, petitioner cannot be permitted to raise a claim for salary for the said period. In absence of challenge to order of punishment, writ petition as framed is not maintainable, no relief can be granted to the petitioner.

Writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

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