

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8613 of 2015

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Ajeet Kumar Upadhyay S/o- Ranjeet Kumar Upadhyay, Resident of village-
Haribanshpur, P.O.- Warishpur, Prakhand- Bhagwanpur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The District Magistrate, Vaishali.
3. The Deputy Development Commissioner, Vaishali.
4. The Program Officer, MNREGA, Bhagwanpur, Vaishali.
5. The Mukhiya, Gram Panchayat Raj, Jahangirpur Patera, Bhagwanpur, Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Purushotam Sharma
For the Respondent/s : Mr.Jai Prabhat Kishore

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 11-09-2019 Heard counsel for the petitioner and counsel for the
respondents-State.

Petitioner was functioning as Panchayat Rojgar Sewak at Jahangirpur Patera of Bhagwanpur block in the district of Vaishali. The contractual engagement of the petitioner was renewed from time to time since 2007. After obtaining leave petitioner absented from 13.01.2014 till 12.10.2014. Thereafter, petitioner came to submit his joining but the same was not accepted by the authorities as there was no provision under which he could be allowed leave for such a long period of nine months having regard to the nature of his service being



contractual. At best, he could be granted seven days which had lapsed long before he had submitted his joining in October, 2014.

Counsel for the petitioner submits that medical prescriptions Annexure 6 and Annexure 9 are sufficient to allow the petitioner's leave for the period of his absence.

Petitioner is not a government servant and provision in so far as grant of leave under Bihar Service Code is not applicable to a contractual employee like the petitioner.

It is submitted by counsel for the respondents that under the terms of contract petitioner can be granted seven days leave only. District Programme Officer was not entitled to grant leave for more than seven days and as such petitioner had not been permitted to rejoin after his absence from January till October, 2014. Various Social Welfare Schemes under Manrega programme were jeopardized during long absence of the petitioner.

Counsel for the respondent-State has also submitted that two medical prescriptions Annexure 6 and Annexure 9 are in coherent. Annexure 6 is a prescription which was issued in January, 2014 for seven days rest on account of fever and Annexure 9 is merely a certificate issued by another doctor



saying that the petitioner was not fit for joining as he had been suffering with tuberculosis.

The prescription of February, 2014, which has been placed at Annexure 6 does not refer to any such disease. Prima facie prescriptions are not sufficient to sustain the petitioner's explanation/plea regarding his long absence.

Specific averments made in the counter affidavit have also not been rejoined by the petitioner by filing any rejoinder, though opportunity was given for the same.

In the aforesaid circumstance, no case is made out by the petitioner for any direction in his favour.

Writ petition is dismissed.

(Madhuresh Prasad, J)

s.hassan/-

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