

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12526 of 2014

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Bimla Pathak wife of Late Chandra Shekhar Pathak resident of Mohalla -
Amahara, P.O. - Amahara, P.S. - Bihta, District - Patna.

... .. Petitioner/s

Versus

1. The Bihar State Road Transport Corporation
2. The Administrator, Bihar State Road Transport Corporation, Beer Chand Patel Marg, Parivahan Bhawan,
3. The Chief of Administration, Bihar State Road Transport Corporation, Beer Chand Patel Marg, Parivahan Bhawan, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Santosh Chandra Bhaskar
For the Respondent/s : Mr.Prabhat Kumar Verma

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 22-04-2019

Heard counsel for the petitioner and counsel for the respondents.

Petitioner was appointed as peon on compassionate ground in the respondents' office. She was removed after serving in the Corporation for considerable period of time. She challenged the order of removal from service by filing writ petition bearing CWJC no. 3445 of 2011 which was dismissed vide order dated 21.06.2012. Petitioner, thereafter, preferred intra court appeal bearing LPA no. 1198 of 2012 which was heard and direction was given by the Division Bench to reinstate the petitioner forthwith on her erstwhile post. Petitioner's claim is that thereafter, respondents preferred Special Leave Petition before the Apex Court and did not allow the petitioner to join after order of the Division Bench dated



03.10.2012 in her favour. It is only after the respondent-corporation lost before the Apex Court in the proceeding arising out of Special Leave to Appeal (Civil) no. 3980/2013 that they allowed the petitioner to rejoin. Period after the Division Bench had allowed the petitioner's reinstatement on 03.10.2012 till the joining of the petitioner was accepted on 18.12.2013 pursuant to dismissal of SLP filed by respondent-corporation is the period for which the petitioner was denied payment of salary.

Petitioner's counsel contends that since there was direction by the Division Bench regarding reinstatement of the petitioner, respondents have wrongly restrained her for performing her duty from the date of passing of order of the Division Bench till dismissal of SLP and for such period, petitioner cannot be denied her salary because she was not at fault.

Respondents, in their counter affidavit, in order to resist the petitioner's claim for arrears for the said period, have relied upon the observation made in order dated 03.10.2012 passed in LPA no. 1198 of 2012 regarding the petitioner not being entitled to back wages. Petitioner in the instant case has not claimed payment of wages prior to order dated 03.10.2012 passed in LPA no. 1198 of 2012, but has prayed for wages subsequent thereto.



In the instant case, claim of the petitioner for arrears is for the period i.e. 03.10.2012 up till 18.12.2013 during which period respondents had wrongly restrained the petitioner from serving them, though she was willing to perform her duty. Petitioner had been restrained by respondents only for the reason that respondents had preferred an appeal before the Apex Court which was ultimately dismissed on 04.10.2013. The order of the Apex court does not contain any direction regarding the petitioner not being entitled back wages for the period after 03.10.2012 to 18.12.2013. Respondents, therefore, in the facts and circumstances, can not deny the petitioner's payment of salary for the said period, as the petitioner after order passed in LPA no. 1198 of 2012 has wrongly been restrained from discharging her duties, though she had offered her services.

Writ petition is allowed. Respondents are directed to ensure payment of salary of petitioner for the period 03.10.2012 to 18.12.2013 within three months from the date of receipt/production of a copy of this order along with detailed calculation chart.

(Madhuresh Prasad, J)

s.hassan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.4.2019
Transmission Date	

