

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12701 of 2014

Dr. Shambhu Shankar Singh @ Shambhu Shankar Singh Son of Late Ram Narayan Singh resident of Village-54, S.K. Tharfdar Road, P.S.- Adampur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Health Department, Govt. of Bihar Patna
2. The Director, Department of Health, Bihar, Patna.
3. The Principal, A.N.M. Medical College, Gaya.

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Udit Narayan Singh
For the Respondent/s : Mr. Asish Kumar Lal, AC to GA 1

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 06-05-2019 Heard learned Counsel for the petitioner and the learned Counsel for the respondent State.

The petitioner has sought quashing of the order dated 20.11.2013, whereby his application dated 15.01.2013 (Annexure 2) for voluntary retirement has been accepted with effect from 6.9.2012.

It is submitted by the petitioner that such voluntary retirement has retrospective effect and obliterates the services of the petitioner for the period in between and is unsustainable. Reliance is placed on the decision in the case of ***Dr. Prem Chandra Jha Vrs. State of Bihar &ors*** reported in ***2003(1) PLJR 178***.

Counsel for the State has referred to Annexure 2 to show that the same is a reminder and not application for



voluntary retirement. From the same it is clear that application for voluntary retirement was already made citing the reasons of illness which resulted in incapacity of the petitioner to perform his duties. Thereafter, from 6.9.2012 the petitioner has been on leave and not performing his duties from the time he made application for voluntary retirement. Just a reminder of that request was sent on 15.1.2013.

From perusal of the application, it is apparent that after 6.9.2012 the petitioner has admittedly been absent from his duties. In the case of *Dr. Prem Chandra Jha (supra)* relied upon by the petitioner benefit of service for the period 16.7.2002 to 15.11.2002 after having taken work from the petitioner therein for the said period, was sought to be obliterated and it was under those facts that this Court held that the petitioner could not be made to suffer such deprivation. The facts in the instant case are different. Having made his application for voluntary retirement the petitioner has chosen not to work from 6.9.2012 which fact is admitted.

In the circumstances, notification dated 20.11.2013 communicating acceptance of his voluntary retirement with effect from 6.9.2012 does not entail any prejudice to the petitioner.

The writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

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