

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13649 of 2014

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Jagdeo Ram, Son of Late Charitar Ram, Resident of Village- Maricha Ram,
P.S.- Sarai, District- Vaishali.

... .. Petitioner

Versus

1. The State of Bihar through the Agriculture Production Commissioner-cum-Principal Secretary, Agriculture Department, Government of Bihar, Patna.
2. The Secretary, Department of Agriculture, Govt. of Bihar, Patna.
3. The Deputy Secretary, Department of Agriculture, Govt. of Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Banwari Sharma, Advocate Mr. Shiv Kumar, Advocate Mr. Sahjarnand Sharma, Advocate
For the Respondent/s	:	Mr. Umesh Kumar, A.C. to A.A.G-14.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 20-05-2019

Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, limited issue has been raised about the
payment of salary to the petitioner for the period from July,
2012 to February, 2013.

The petitioner was transferred on the post of Joint
Agriculture Director, Bhagalpur on 16.11.2011. He was
discharging the duties. A new notification dated 25.06.2012 was
passed, transferring him as Joint Agriculture Director
(Extension), Patna, and one Laxmikant Sah was posted on the
place of the petitioner. Being aggrieved by the said order, the



petitioner filed a writ petition being C.W.J.C. No. 11544 of 2014 unsuccessfully, whereafter he challenged the order of the learned Single Judge in L.P.A. No. 1466 of 2012 successfully. Whereafter, the petitioner was allowed to work at Bhagalpur, but learned counsel for the petitioner submits that Mr. Laxmikant Sah, who was posted at Bhagalpur in his place has assumed the charge unilateral and *Suo moto*, on that account, the petitioner could not work there, hence he had no other option but to approach this Court.

Learned counsel for the petitioner submits that the petitioner has filed an application before the competent authority for payment of salary during the period from July, 2012 to February, 2013. A counter affidavit has been filed by the State, wherein plea has been taken that he has not discharged the duty during that period and he could not explain where he was, on that account, the petitioner has not been granted the salary for the aforesaid period.

As has been stated by the petitioner that he did not join at Patna on account of fact that he had challenged the order of his transfer and ultimately succeeded, but Laxmikant Sah assumed the charge unilateral and *Suo moto*, hence, the petitioner could not mark his presence, so it cannot be treated



that he is not entitled to the salary.

As the issue with regard to entitlement of salary has not been gone into by the State. Let the State take decision with regard to entitlement of salary to the petitioner in the background of fact that on account of wrong decision of the Government he was transferred from Bhagalpur to Patna within six month, ultimately, the action of the Government has not been approved by this Court.

For convenience, the petitioner is directed to file a representation before the competent authority attaching the present order of this Court. If such a representation is filed, the authority shall decide the same in accordance with law in the background of facts, as stated hereinabove, within a period of three months from the date of filing of representation by the petitioner.

With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	22.05.2019
Transmission Date	

