

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7570 of 2011

Dr Md Naseem Alam S/O Late Abdul Hakeem Resident Of Mohalla Mahawat
Toli, Station Road, Police Station Bettiah, District West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Health, Government of Bihar, Vikas Bhawan, Patna
2. The Joint Secretary, Department Of Health, Government Of Bihar, Vikas Bhawan, Patna.
3. The Deputy Secretary, Department Of Health, Government Of Bihar, Patna.
4. Dr Narendra Mohan Sharma S/O Not Known The The Petitioner, The Under Secretary Cum Conducting Officer, Department Of Health, Government Of Bihar, Vikas Bhawan, Patna.
5. The Regional Deputy Director, Health Services, Division Saran, Chapra.
6. The Civil Surgeon, Siwan.
7. The Accountant General, Bihar, Patna.
8. The Treasury Officer, Bettiah, District West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr Syed Firoz Reza, Advocate
For the S t a t e	:	Mr Raj Ballabh Prasad Yadav, AAG XI
For Respondent No 7	:	Mr Dhanendra Chaubey, Advocate

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

5 29-07-2019 Heard learned counsel for the petitioner and the respondent-State.

Petitioner's counsel submits that the order of punishment dated 22.07.2010, withholding 5% pensionary benefits of the petitioner is unsustainable. Placing reliance on the certificate issued by the Civil Surgeon -cum- Chief Medical Officer, Siwan dated 25.03.2006 (Annexure 7A), it is submitted



that the alleged financial irregularities, as per supplementary charge memo dated 11.03.2006, are not sustainable since the certificate clearly states that the audit report of the Accountant General office for the years, 2000 to 2002 clarifies the issue that the irregularities are not during the period of petitioner's posting.

Whether the financial irregularities alleged in the supplementary charge sheet are part of the audit report is issue of fact which the authorities only can examine.

Learned State Counsel, in the circumstances, raises an objection regarding maintainability of the writ petition having regard to the disputed issue of fact being raised by the petitioner's counsel. He submits that the petitioner has adequate and efficacious remedy before the Authorities by filing review by way of Memorial under Rule 24 (2) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for brevity, Bihar CCA Rules, 2005).

Petitioner's counsel would submit that he would be availing this remedy.

Since issue of maintainability has been raised by the learned State Counsel and this issue of fact, which has been raised by the learned counsel for the petitioner, can be



considered by the Authorities themselves, this Court, having regard to the nature of effect on the petitioner's pension, would grant the petitioner opportunity to avail his remedy under Rule 24 (2) of the Bihar CCA Rules, 2005 within a period of four weeks from today.

In the event, the same is filed, it is needless to say that the Reviewing Authority should consider petitioner's claim on its own merit without raising any objection of review being delayed. The Authority would be obliged to dispose of the claim by reasoned and speaking order in accordance with law within a period of six weeks thereafter.

Writ petition stands disposed of.

(Madhuresh Prasad, J)

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