

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.2097 of 2015

Along with

Interlocutory Application No. 1 of 2019

Arising out of

Civil Writ Jurisdiction Case No. 15713 of 2008

Sudama Prasad Karn, Son of Late Ram Prasad Lal, Resident of Village Kanchanpur, P.S. Barun, District- Aurangabad, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Mr. Arvind Kumar Choudhary, the Secretary, Department of Social Welfare, Government of Bihar, Patna.
2. Mr. Vaidya Nath Yadav, the Director, I.C.D.S., Department of Social Welfare, Indira Bhavan, Ram Charitra Singh Path, Near Bailey Road, Railway Crossing, Patna-1.
3. Mrs. Shobha Sinha, Child Development Project Officer, Paraiya, District Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha and
Mr. Abhay Shankar Jha, Advocates
For the Opposite Party/s : Mr. Pushkar Narain Shahi, AAG 6 and
Mr. Sanjeet Kumar Singh, AC to AAG 6

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 23-09-2019

Heard Mr. P. N. Shahi, learned AAG 6 for the State and learned counsel for the petitioner.

2. The Interlocutory Application has been filed on behalf of the State authorities for recall of order dated 09.09.2019 passed in the present proceeding.

3. By the said order, the Court had directed for the personal appearance of the Additional Chief Secretary,



Department of Social Welfare, Government of Bihar on 22nd October, 2019.

4. Learned counsel for the State pressing the Interlocutory Application submitted that whatever was contemplated under the original order dated 12.08.2014 passed in CWJC No. 15713 of 2008, has been done. He submitted that the writ petition itself was filed only for the grievance that though the petitioner was on deputation in the Welfare Department of the State Government being a substantive employee of the Bihar State Construction Corporation Limited (hereinafter referred to as the 'Corporation'), once the Government had taken a policy decision to continue with the service of its employee up to the age of 60 years, the deputation could not have been terminated upon the petitioner attaining the age of 58 years on the ground that the Corporation permitted continuance in service only till the age of 58 years. In that context, it was submitted that the Court had granted relief that the petitioner would continue in service in the Welfare Department till he attains the age of 60 years as per the service conditions applicable to Government employees with all consequential benefits. It was contended that such consequential benefits clearly implied that the petitioner would be allowed to continue for a further period of two years and would get whatever



emoluments to which he was entitled at par with the persons working in the Department at the same level. It was submitted that though in the Corporation neither the 5th Pay Revision nor the 6th Pay Revision recommendations were accepted, but still the petitioner has been granted the benefits of both and, thus, some amounts may be recoverable also. It was further submitted that even with regard to earned leave, for the period the petitioner worked under the State Government, he was entitled to only encashment of 240 days but still he has been paid for the maximum permissible limit of 300 days.

5. At this juncture, learned counsel for the State fairly submitted that only for the purposes of bringing before the Court the correct factual position, such stand has been taken, but realizing the legal provisions, the Department is not pursuing the matter with regard to recovery of whatever has been paid and the matter would be closed.

6. Learned counsel for the State was equally fair in submitting that no contempt has been made out.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds that the order dated 12.08.2014 passed in CWJC No. 15713 of 2008, stands complied with.



8. Accordingly, the application itself stands disposed off.

9. In view of the aforesaid, the order dated 09.09.2019 automatically stands recalled. Any direction for appearance, a consequence, also stands recalled.

10. However, it goes without saying that for any fresh cause of action, it shall always be open to the petitioner to move before the appropriate forum, in accordance with law.

11. Interlocutory Application No. 1 of 2019, also stands disposed off.

(Ahsanuddin Amanullah, J.)

P. Kumar

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