

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15913 of 2011

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YOGENDRA PRASAD S/O Late Jaglal Sah R/O Vill. P.O. - Jalpura, P.S.
Koilwar, Distt. Bhojpur At Present Working As Dresser In T.B. Hospital,
Koilwar, Distt. Bhojpur

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR and ORS
2. The Director In Chief, Department Of Health, Bihar, Patna
3. The Superintendent T.B. Hospital, Koilwar, District - Bhojpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Awadh Bihari Ojha, Sr. Advocate
For the Respondent/s	:	Mr.Sajid Salim Khan, SC 25

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

10 09-09-2019 Heard counsel for the petitioner and counsel for the
respondents-State.

Petitioner seeks quashing of order dated 21.02.2011
whereby petitioner's claim submitted pursuant to order dated
19.07.2010 passed in CWJC No. 14403/2002 has been rejected.
Petitioner moved this court several times seeking payment of
salary in regular appointment since 19.12.1988. Various writ
petitions earlier had been referred to the authorities on account
of lack of details. Even in the order 19.07.2010 passed in CWJC
No. 14403/2002 this court had recorded as follows:

*“In that view of the matter, when the petitioner has
himself not been specific about his relief, this court, at best, can
only give him liberty to now raise his demand before the*



Director-in chief, Health Department, who would look into the relevant records as also the earlier report submitted in the matter for deciding the entitlement of the petitioner either in the matter of regularizing the period of his absence on account of illness in accordance with rules and/or payment of salary for the work actually performed by the petitioner.

In order to expedite the matter, the petitioner is given liberty to file a self-contained representation including copy of this order and the Director-in-chief of Health Department will take his decision by passing a final order within a period of six months from the date of receipt/production of a copy of this order.

With the aforementioned observations and direction, this application is disposed of.”

It is in this background, petitioner approached the authority by making his representation. In his representation he had referred to the report submitted by the Superintendent of hospital in the year 1999. In support of his claim and also submitted that on account of unfortunate circumstance for some time after his regularization in the year 1988, he could not attend his duty. Petitioner's claim for salary based on report of the then Superintendent of the hospital also does not help the petitioner. Extract of the report of the then Superintendent is as follows:-

“That the concerned Superintendent Dr. Smt. Geeta Kumari submitted her communication in compliance to



aforesaid letter dated 22/6/1999 and very fairly confined the factual positions that when the petitioner on recovery came to join on 6/9/1994, the then Superintendent of T.B. Hospital, Koilwar Sri Ganesh Ram Tirkey desired to accept it and called for the file from the office as the petitioner has come with Medical Certificate after long ailment of paralysis but due to local bickering in the office the Head Clerk of the office did not produce the file. Then Sri Tirkey opened a separate attendance register with his counter signature and after accepting the joining report of the petitioner he asked the petitioner to work in the ward and sign the separate attendance register. Since then the petitioner has been working and putting his signature on the separate attendance register. A copy of the letter dated 16/8/1999 is Annexure-6.”

Claim on basis of attendance in a separate attendance register has been rejected by the Director-in-chief of Health Department. The order of the Director-in-chief of Health Department is very detailed and elaborate. Order with reference to facts raised. Determination does not require any interference by this court.

Mr Ojha learned senior counsel appearing for the petitioner submits that there is no termination order against the petitioner.

Issue in the instant proceedings is regarding payment of regular salary. The claim does not stand substantiated in view of averments made in the representation filed by the petitioner



which has been taken note of by this court.

This writ petition does not raise any enforceable claim
and the same is dismissed.

(Madhuresh Prasad, J)

s.hassan/-

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