

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 14082 of 2014

Radha Krishna Singh, aged about 57 years, Son of Late Manhagu Singh R/o village Satsa, P.S. Kochas District Rohtas.

... .. Petitioner/s

Versus

1. Bihar State Scheduled Caste Cooperative Development Corporation Ltd through its Managing Director, Budha Colony, Patna
2. The Managing Director, Bihar State Scheduled Caste Co-operative Development Corporation Ltd, Budha Colony, Patna
3. The State of Bihar through the Secretary, Department of Welfare, Govt of Bihar, Patna.
4. The Secretary, Department of Welfare, Govt. of Bihar, Patna.
5. The Registrar, Cooperative Societies, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr Brij Bihari Tiwary, Advocate
For the Respondent/s	:	Mr Ram Shankar Pradhan, Sr Advocate with Mr Ramesh Kumar, Advocate

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 06-08-2019

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

2 Petitioner was terminated from the services of Bihar State Scheduled Castes Cooperative Development Corporation (for brevity, the Corporation) on 04.02.2000. Petitioner's termination was challenged in a writ proceeding. The order of the Writ Court setting aside the petitioner's termination is dated 23.03.2009. The petitioner, pursuant to setting aside the said order, has submitted



his joining on 01.04.2009. Respondents have preferred Letters Patent Appeal against the order passed on the petitioner's writ petition bearing CWJC No 8575 of 2002. LPA No 814 of 2009 filed by the respondent-Corporation has finally been dismissed on 07.02.2011.

3 Learned counsel for the petitioner submits that since the Writ Court as well as the LPA Court were of the opinion that the petitioner's termination was illegal, petitioner would be entitled to salary for the period 04.02.2000 onwards as he has wrongfully been deprived of discharging his duties on account of his illegal termination.

4 Respondents, on the other hand, submit that the orders of the Writ Court or LPA Court do not contain any such relief in favour of the petitioner. Since back wages have not been granted under the said orders, the petitioner cannot be allowed to claim the said benefit in the instant proceeding.

5 Petitioner's counsel has relied upon a decision of this Court in the case of Tuntun Kumar Roy -Versus- Union of India & Others, 2014 (3) PLJR 695. It is submitted that at least from the date of joining, i e, 01.04.2009, pursuant to the Writ Court's order, the petitioner should be given his back wages as the said joining was pursuant to a judicial declaration regarding invalidity of the



termination. Since the respondents have not allowed the petitioner to work even after joining pursuant to judicial declaration, claim of the petitioner's salary beyond 01.04.2009 cannot be resisted by the respondent-authorities.

6 Learned Senior Counsel appearing for the Corporation has drawn attention of the Court towards interim order dated 19.03.2010 issued by the Division Bench wherein the Division Bench had stayed operation of the order dated 23.03.2009 passed by the Writ Court. It is submitted that in view of the stay granted by the Division Bench, the petitioner could not claim any salary for the period till the Division Bench finally dismissed the Letters Patent Appeal, i e, on 07.02.2011. The petitioner, after the order passed by the Division Bench, had been allowed to submit his joining on 15.03.2011 and, therefore, he would not be entitled to any back wages prior to 2011.

7 Having taken note of the factual matrix of the case and submission of the parties, this Court would observe that petitioner's reliance on decision of this Court, at best, supports his claim for salary with effect from the date of his joining, i e, 01.04.2009, since the Writ Court, in its order dated 23.03.2009, had not given any relief in so far as back wages for the period 04.02.2000, i e, the date of termination till his date of joining, i e,



01.04.2009. The operation of the stay granted by this Court has come into effect much later after petitioner submitted his joining on 01.04.2009.

8 Stay was directed under order dated 19.03.2010. For the period between 01.04.2009 to 19.03.2010, the Authorities were not justified in disallowing the petitioner to discharge his duties and pay him salary ignoring the declaration by the Writ Court under order dated 23.03.2009. The respondents, therefore, cannot make the petitioner suffer on account of deprivation of salary for the period 01.04.2009 to 19.03.2010. The appeal of the respondents has finally been dismissed on 07.02.2011. The petitioner had submitted his joining much before, i e, 01.04.2009. As such, for the period of 07.02.2011 onwards also, this Court would observe that the petitioner would be entitled to payment of his salary and other benefits.

9 The period between 19.03.2010, till dismissal of the appeal on 07.02.2011, is a period for which the respondents have deprived the petitioner of his salary on the strength of the interim order passed by the Division Bench.

10 In the circumstances, the respondents cannot be saddled with any liability to pay the petitioner any salary or dues for the period 19.03.2010 till 07.02.2011.



11 The Authorities, in light of the observations herein above, should ensure payment of the dues of the petitioner expeditiously without any undue delay, preferably within a period of eight weeks from the date of receipt/production of a copy of this order.

12 Writ petition stands allowed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	AFR
CAV DATE	NA
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