

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.738 of 2015

In
Civil Writ Jurisdiction Case No.11795 of 2011

-
-
1. The State of Bihar through the Principal Secretary Department of Health, Government of Bihar, Patna
 2. The Joint Secretary, Department of Health, Government of Bihar, Patna.
 3. The Deputy Secretary, Department of Health, Government of Bihar, Patna.
 4. The Under Secretary, Department of Health, Government of Bihar, Patna.

... .. Appellant/s

Versus

1. Dr. Ramashish Prasad Singh Son of Late Karu Singh. Resident of A/2, R.R. Complex, A.N. Path, Boaring Path, P.S. Sri Krishnapuri, Town And Distt. Patna.
2. Accountant General A and E, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Manoj Kumar, A.C. to S.C.12
For the Respondent/s	:	Mr. Shiv Kumar, Adv. Mr. Manish Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
and
HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 05-03-2019

Heard Mr. Manoj Kumar A.C. to S.C.12 for the appellant,
Mr. Shiv Kumar for the respondent- writ petitioner and Mr.
Manish Kumar for the Accountant General, Bihar, Patna

This intra-court appeal under Clause 10 of the Letters
Patent Appeal of the High Court of Judicature at Patna arises
from a judgment and order of a learned Single Judge dated



11.02.2014 passed in C.W.J.C. No.11795 of 2011 (Dr. Ramashish Prasad Singh versus State of Bihar) whereby the claim of the petitioner for treating the period from 25.05.1998 to 27.06.2004 as waiting for posting has been upheld on the claim. It is not in dispute that the consequences flowing from such opinion expressed by the learned Single Judge has been given effect to and as per the submission of Mr. Shiv Kumar it has been implemented. To such extent the appeal is rendered infructuous. It is because a coordinate bench of this Court taking note of the complaint of the State and the issue raised in appeal, required the State in its Health Department to take consequential actions thereon, to check the menace of absentee doctors that the matter remained pending before this Court allowing the Health Department to take necessary measures as against the erring doctors who were not found present on their respective place of posting as well to take remedial measures to curb such menace.

During the period of last 4 years not less than 12 affidavits have been filed by the Principal Secretary, Health Department and which by itself is a reflection of seriousness with which the Department has proceeded in the matter to the satisfaction recorded by this Court in the order(s) passed from



time to time and to such extent we are pleased to approve the steps so taken by the Health Department to put the house in order. In fact, the last 2 affidavits filed by the Principal Secretary, Department of Health is a confirmation of the seriousness in the action taken against the doctors who were not present on their place of posting.

Since the ball has been set on roll and we do believe that the Principal Secretary, Health Department would take it to its goal, we do not intend to keep the matter pending.

We have already noted the submissions of Mr. Shiv Kumar who informs that the judgment and order of the learned Single Judge is resting on the facts available on the records of the proceedings which confirm that the petitioner was not found wanting in giving his joining but was awaiting his posting until the orders came. We have gone through the order passed by the learned Single Judge and the opinion expressed is supported by the facts available on the records of the proceedings which have not been disputed although on principle, an issue of absenteeism of doctors, has been raised by the State through the appeal in question. There cannot be a contest on the principle but whether it applies to the case of the writ petitioner, is the subject matter of the present appeal and the records confirm the opinion



expressed by the learned Single Judge and thus we are not persuaded by the issues raised to interfere therewith.

The appeal is accordingly disposed of.

(Jyoti Saran, J)

(Arvind Srivastava, J)

Bibhash

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.04.2019
Transmission Date	NA

