

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4400 of 2012

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Meena Sharma W/O Late Dr. Upendra Sharma R/O Mohalla- Park Road,
Sitamarhi, Police Station- Sitamarhi, District- Sitamarhi

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner Cum Secretary Department Of Health, Medical Education And Family Welfare, Government Of Bihar, Patna
3. The Deputy Secretary, Department Of Health Medical Education And Family Welfare, Government Of Bihar, Patna
4. The Under Secretary Department Of Health, Government Of Bihar, Patna
5. The Director In Chief, Health Services, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Siya Ram Shahi Ms. Shally Kumari
For the Respondent/s	:	Mr.Bishwa Bibhuti Kumar Singh, AC to AG

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 26-02-2020 Heard counsel for the petitioner and counsel for the
respondents-State.

Husband of the petitioner has been deprived of his
benefit for the period of service in between 07.07.1995 to
15.01.2002. The order has been passed by the Government and
is dated 12.08.2008.

The order has been issued by the Government since
rule 76(a) of the Bihar Service Code bars grant of any kind of
leave for a period exceeding 5 (five) years.

Rule 76(a) of the Bihar Service Code provides-

“ (a) No Government servant shall be granted leave



of any kind for a continuous period exceeding five years.”

Learned counsel for the petitioner submits that for substantial part of the said period he was “ awaiting posting” and not on leave. By making such submissions, order dated 12.08.2008 has been challenged by this writ petition filed after about 4 (four) years.

Whether petitioner was awaiting posting, or not, is a factual issue. The petitioner may show to the authorities that he was awaiting posting, and for what period.

Petitioner may prefer review by way of memorial under Rule 24(2) of the Bihar CCA Rule,2005 before the Government since order has been passed pursuant to the order of remand dated 05.04.2007 passed in CWJC No.11746 of 2004.

If the petitioner avails her remedy and is able to show to the authorities that in between the said period, her husband had been kept waiting for posting for substantial time and he was entitled to any leave, authorities may be required to do the needful in accordance with law.

Writ petition stands disposed of.

s.hassan/-

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(Madhuresh Prasad, J)

