

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.20368 of 2019**

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Dinesh Prasad Sah Son of Late Radhey Prasad Sah, Resident of Village-Patel Nagar, Ward no.19, Khagaria, Police Station-Khagaria, District-Khagaria.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Bihar, Patna.
2. The Director-in-Chief (Administration), Health Services, Bihar, Patna.
3. The Civil Surgeon-Cum-Chief Medical Officer, District-Darbhanga.
4. The Incharge, Primary Health Centre, Biraul, District-Darbhanga.

... .. Respondents

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**Appearance :**

For the Petitioner/s : Mr .Ajoy Kumar Chakraborty  
For the Respondent/s : Mr. Chitranjan Sinha, PAAG-2

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**  
**ORAL JUDGMENT**

**Date : 26-06-2020**

Heard learned counsel for the petitioner via video conferencing.

2. The prayer of the petitioner in the present petition is for issuance of a direction to the respondents to pay the post retiral benefits to the petitioner, who superannuated from the service with effect from 31.03.2017.

3. It is contended by the learned counsel for the petitioner that the petitioner has superannuated from service with effect from 31.03.2017. He has already submitted his application before the Respondent no. 2 on 05.07.2019 with all necessary papers relating to pensionary benefits but, till date he



has not been paid any retiral amount like pension, gratuity, leave encashment and provident fund etc. in spite of repeated persuasion made by him in the office of the Civil Surgeon-cum-Chief Medical Officer, Darbhanga.

4. Learned counsel appearing for the State contended that from perusal of Annexure-1 to the writ petition, it would be manifest that the petitioner is not qualified to receive pension, as his appointment has already been held to be forged.

5. On perusal of Annexure-1 to the present petition, it would appear that the petitioner was removed from the post of Basic Health Worker (BHW) under the order dated 9.12.1999. His removal was on the basis of a show cause alleging that his initial appointment letter was forged. The order dated 9.12.1999 was challenged by the petitioner in CWJC No. 10742 of 2003. The same was heard along with LPA No. 946 of 2003 and on 26.6.2006 a committee was constituted by the Department for scrutinising the validity of appointment of the petitioner along with various others. In light of the observations in LPA No. 946 of 2003, the issue was scrutinised and many of the removed BHWs were taken into service. However, the petitioner could not get benefit from such scrutiny as the Committee was also of



the opinion that the appointment of the petitioner was forged. In the circumstances, the petitioner filed another writ petition in 2009 vide CWJC No. 15563 of 2009, which was disposed of on 9.11.2011 with liberty to file a representation in respect of his grievance before the Director-in-Chief, Health Services, Bihar.

6. Pursuant to the aforesaid order, the issue was raised by the petitioner before the Director-in-Chief for consideration. The Director-in-Chief, rejected the petitioner's claim by holding that his appointment letter does not reconcile with the issue register maintained in the office, from which the appointment letter was alleged to have been issued.

7. Being aggrieved, the petitioner filed another writ petition vide CWJC No. 1542 of 2016, which was disposed of vide order dated 17.01.2019 by this Court whereby the order of Director-in-Chief dated 26.12.2013 was quashed and the matter was referred back to him for fresh consideration on the basis of facts made available by the petitioner.

8. It was also observed that the Director-in-Chief should complete the exercise after giving due opportunity to the petitioner within a period of six months.

9. Nothing has been stated by the petitioner in the writ petition as to what happened after this Court disposed of



CWJC No. 1542 of 2016 vide order dated 17.01.2019.

10. In that view of the matter, if appointment of the petitioner itself has been held to be forged and the outcome of his representation, which was directed to be reconsidered by the Director-in-Chief, Health is not known, no mandamus can be issued by this Court to the respondents to pay the retiral benefits.

11. Accordingly, the writ petition is disposed of with liberty to the petitioner to take appropriate steps in terms of the order dated 17.01.2019 passed in CWJC No. 1542 of 2016 and, only if his initial appointment is held to be genuine, he may file representation before the respondent no. 3 for payment of admissible retiral dues.

**(Ashwani Kumar Singh, J)**

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