

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21765 of 2019

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Tej Narain Lal S/o Late Harakh Lal, Resident of Village- Nain Chak, P.S.-
Khagaul, Dist-Patna-801105.

... .. Petitioner/s

Versus

1. State of Bihar represented through Chief Secretary Govt. of Bihar, Old Secretariat Building, Patna.
2. Executive Engineer Public Health Division, Hilsa (Nalanda).
3. Superintendent Engineer Public Health Engineering Department, Patna Circle, Patna at Raj Banshi Nagar, Patna-800023.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Tilak Sao
For the Respondent/s : Mr.S. Raza Ahmad (Aag5)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

2 16-01-2020 Heard learned counsel for the petitioner and

learned counsel for the State.

2. The petitioner has come to this Court with a prayer for payment of salary for the period he stood terminated with effect from 20.02.1991 to 20.12.2007 which is the order of the Labour Court passed in Reference Case No. 32 of 2000.

3. Learned counsel for the petitioner submits that since the termination order was held to be bad by the Labour Court, he is entitled to full back wages. It is further submitted that though he had succeeded before the Labour



Court and the award was passed in his favour yet he was reinstated only on 16.03.2018 which entitles him to the payment of back wages.

4. Learned counsel for the State, however, contends that the aforementioned award was challenged before this Court. Though the State did not succeed in same the LPA Court directed as follows :-

“5. Learned counsel for the respondent states that the respondent will not claim for back wages from the date of termination till the date of reinstatement, if he is reinstated within one month from today.

6. In view of the said fact, the present Letters Patent Appeal is dismissed with the condition that if the workman is reinstated within one month from the date of receipt of a certified copy of this order, he shall not be paid any back wages for the period of his termination till the date of reinstatement, otherwise the order of the learned Single Bench will be operative.”

5. He further submits that pursuant to this order, the petitioner was reinstated only after a year and the calculations made towards payment of his back wages were not done properly which necessitated the filing of an MJC



application bearing MJC NO. 1891 of 2017. The said MJC was also disposed off vide order dated 13.03.2019 in the following terms :-

“The contention of learned AAG is not controverted by the learned counsel for the petitioner but he submits that let the present proceedings be disposed of with liberty to raise the issue of miscalculation of the entitled amount of the petitioner.

In the circumstances, this application is disposed of with a liberty to the petitioner to raise the issue before the appropriate authority, if there is mistake in the calculation of the entitled amount of the petitioner.”

6. It is not known as to what plea was taken before the authority by the petitioner with regard to the miscalculation but he has approached this Court again praying for payment of his total back wages which also includes the period between the year 1991 which was his date of dismissal and termination and till the date of his reinstatement. Such plea by the petitioner is not tenable as the Labour Court while disposing of his case had clearly stated to the following effect :-



“6. Having considered the oral and documentary evidence, I find that service of the workman has been dispensed with on allegation of un-authorised absence from 03.02.1991 to 20.02.1991. I also find that no enquiry has been held before removal from service. I think it is imperative on the management to hold enquiry on the allegation but I find that no enquiry has been held by the management, therefore, I am of the view that the impugned termination order suffers from infirmity. Length of service of the workman is very short. I think the workman does not deserve backwages.

In view of the facts and circumstances set forth above, I find and hold that the impugned termination is bad and illegal. It is hereby set aside. Management is directed to reinstate the workman into the service.

I pass the award accordingly.”

7. In view of the aforementioned facts and circumstances, this Court finds that the petitioner is not entitled to any payment of back wages. As such, the present writ application stands dismissed with liberty to the petitioner to approach the authorities if at all there has been



any mis-calculation in the payments which have already been made in his favour.

8. However, it is also stated by the petitioner that he was not paid his salary between the period 01.10.1990 to 19.02.1991 just prior to the date of his order of termination, if that be so, the authorities shall examine the matter and if it is found that he had not been paid and there be no cogent reasons for denial of the same, the authorities shall take appropriate steps for payment of the aforementioned amount.

(Anjana Mishra, J)

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