

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24881 of 2018

- 1.1. Rekha Kumari wife of Late Nakul Malakar resident of Near Satsang Mandir, Gandhi Path, Ward No. 8, P.O. and P.S. Saharsa, District- Saharsa.
- 1.2. Niraj Kumar Son of Late Nakul Malakar resident of Near Satsang Mandir, Gandhi Path, Ward No. 8, P.O. and P.S. Saharsa, District- Saharsa.
- 1.3. Saurabh Kumar Son of Late Nakul Malakar resident of Near Satsang Mandir, Gandhi Path, Ward No. 8, P.O. and P.S. Saharsa, District- Saharsa.

... .. Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
2. The Engineer-in- Chief- cum- Additional Secretary -cum- Special Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. The Chief Engineer, Public Health Engineering Department, Government of Bihar, Patna.
4. The Superintending Engineer, Public Health Engineering Circle, Saharsa.
5. The Executive Engineer, Public Health Division, Saharsa.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Arjun Prasad
For the Respondent/s : Mr. Upendra Kumar Singh, AC to SC-4

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

6 29-06-2021 This writ application has been filed seeking following
reliefs : -

“(I) For issuance of an appropriate writ in the nature of Certiorari for quashing the part of the office Order No.125 dated 27.07.2016 passed by the Respondent No.5 and contained in his memo no.847 dated 27.07.2016, whereby and where under the Respondent no.5 has been pleased to pass an order of recovery of Rs.21,860/- from the salary of the petitioner in two equal installment



and also for recovery of salary of unauthorised period of absence of the duty from 16.05.2011 and 22.05.2011.

(II) For issuance of an appropriate writ in the nature of Mandamus commanding and directing the respondent authorities for payment of arrears of salary of the suspension period from 21.05.2011 to 27.07.2016 with annual increment on the ground that vide order dated 27.07.2016, the suspension of the petitioner was revoked only with punishment of recovery of Rs.21,860/- from the salary of the petitioner and recovery for salary of unauthorized absence for the period 16.05.2011 to 22.05.2011 and there is no order of withholding the salary of the suspension period.”

This is relevant to note that the original petitioner Nakul Malakar died during pendency of the application and came to be substituted by his wife and sons.

A supplementary counter affidavit has been filed on behalf of the State of Bihar stating therein that the Executive Engineer, Public Health Division, Saharsa, has sanctioned payment of full salary for the period of suspension from 21.05.2011 to 27.07.2016 after adjusting the amount of subsistence allowance, which was already paid to the original petitioner for the said period. It has further been stated that a sum of Rs.11,96,120/- has been paid to the petitioner through



CFMS in appropriate bank account. No rejoinder has been filed to the said supplementary counter affidavit.

Considering the above, this application is disposed of with an observation that if the petitioners are of the view that they are entitled to more amount than what has been paid, they shall be at liberty to approach the appropriate authority by making a representation within six weeks from today. If that is done, the respondents shall be obliged to consider and take a final decision within two months thereafter.

(Chakradhari Sharan Singh, J)

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