

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4497 of 2020

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Ashok Kumar, Son of Late Brija Ram, Resident of Village- Charpokhri,
Police Station- Charpokhri, District- Bhojpur (Ara).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, New Secretariat, Bihar, Patna.
2. The Director-in-Chief, Health Services, Bihar, Patna.
3. The Civil Surgeon-cum-Chief Medical Officer, District- Bhojpur.
4. The Incharge Medical Officer, Primary Health Centre, Charpokhri, District- Bhojpur (Ara).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajoy Kumar Chakraborty, Advocate
For the Respondent/s : Mr.Nagendra Prasad Yadav (Sc23)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

6 13-04-2021 Heard learned counsel for the petitioner and the respondents.

The issue of appointment of the petitioner was set at rest by the Division Bench of this Court in L.P.A. No. 1502 of 2010.

Learned counsel for the petitioner submits that against the decision of the L.P.A. Court, no appeal was preferred by the respondents before the Apex Court and the judgment intra parte has become final. He also refers to the follow up letter dated 12.12.2017, as contained in Annexure-3, whereby the Civil Surgeon-cum-Chief Medical Officer, Bhojpur, Arrah issued letter to the Director-in-Chief, Health Department in connection with grant of post retiral benefits.



Mr. Ajay Kumar Chakraborty, learned counsel for the petitioner submits that the judgment intra parte has final and binding and it cannot be nullified on account of subsequent decision of the Apex Court in Civil Appeal No. 8649 of 2018 dated 30.11.2018. The judgment of the Apex Court may be relevant for the purpose of deciding the dispute where there is no inter party judgment or adjudication of the individual claim.

In the present case, Mr. Chakraborty submits that after adjudication, the L.P.A. was decided in favour of the petitioner and the judgment of the LPA Court intra parte is binding.

Counsel for the respondents submits that no SLP was preferred against the judgment of the LPA Court, but in the subsequent judgment, the Apex Court has held out such appointment as illegal and as such the petitioner is not entitled to the benefit of post retiral claim/payment.

After considering the rival contention of the parties, the Court is of the view that even if intra parte judgment is binding and since the respondents have not preferred SLP and the judgment of the L.P.A. Court has become final and binding, the respondents are obliged to strictly adhere to the judgment of the L.P.A. Court and grant the benefit emanating from the LPA Court judgment in favour of the petitioner and ensure payment



of all legitimate dues from the date of superannuation and also ensure payment of all post-retiral dues in terms of the judgment of the LPA Court within a maximum period of six months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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