

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3834 of 2022

Dr. Hari Damodar Singh Son of Sarvadeo Singh Resident of Deoraj Nursing Home, Opp.- Head Post Office, Laxmipur, Balbhaddarpur, P.S.- Katihar (Sahayak), District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary-cum- Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Additional Chief Secretary-cum- Principal Secretary, Health Department, Government of Bihar, Patna.
3. The Special Executive Officer, Health Department, Government of Bihar, Patna.
4. The Additional Secretary to Government, Health Department, Government of Bihar
5. The District Magistrate, Darbhanga
6. The Additional Collector-cum- District Public Grievance Redressal Officer, Darbhanga
7. The Superintendent, Darbhanga Medical College and Hospital, Darbhanga.
8. The Additional Chief Medical Officer, Darbhanga
9. The Sub- Divisional Officer, Sadar, Darbhanga
10. The Sub- Divisional Police Officer, Sadar, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Suryakant Kumar
For the Respondent/s : Mr. Nagendra Pd. Yadav, SC-23

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 10-05-2022

Heard learned counsel for the respective parties.



In the instant petition, petitioner has prayed for the following relief/reliefs:

“(i) for quashing Notification contained in Sn. Sn.-17 / Aarop – 16 / 2020 – 1213 (17) dated 21.12.2020 issued under the signature of Additional Secretary to Government, Health Department, Government of Bihar whereby punishment of withholding of one increment without cumulative effect has been awarded to the petitioner without initiating any departmental proceeding, as per the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005.

(ii) for quashing Notification contained in Sn. Sn.-17 / Aarop – 15 / 2020 – 449 (17) dated 31.05.2021 issued under the signature of Special Executive Officer, Health Department, Government of Bihar whereby the punishment of withholding of one increment, without cumulative effect has been held to continue as earlier.

(iii) for payment of consequential monetary benefits arising due to quashing of the aforementioned impugned Notifications with interest.

(iv) for any other relief / reliefs for which the petitioner is found entitled in the facts and circumstances of the case.”



Pursuant to the order dated 19.04.2022, respondent no.4-Additional Secretary to Government of Bihar, Mr. Kaushal Kishore, is present in the Court. This Court posed a question as to is there any application of mind in respect of examining the petitioner's explanation to the second show-cause notice or not? He made a statement that petitioner's explanation has been taken note of and the same is reflected in the office note sheet. Even though, there is application of mind by the disciplinary authority while passing order, however, petitioner has not been made known the application of mind of the disciplinary authority for the reasons that impugned order must reflect the application of mind by the disciplinary authority in considering each of the contention raised by the petitioner against second show-cause notice i.e., reply to the second show-cause notice read with Inquiry Officer's report. On this short ground, the impugned orders dated 21.12.2020 and 31.05.2021 (Annexure-1 series) stands set aside.

The disciplinary authority is hereby directed to pass a fresh speaking order after due consideration of each of the contention raised by the petitioner in his explanation to the second show-cause notice. The above exercise shall be completed within a period of one month from the date of receipt



of this order and the same shall be communicated to the petitioner.

With the above observation, the present writ petition stands allowed.

(P. B. Bajanthri, J)

Ankit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.05.2022
Transmission Date	NA

