

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16141 of 2014

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Shiv Nandan Mahto son of Late Ram Bahadur Mahto, resident of village-
Matihani, P.S.- Matihani, District- Begusarai

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Department of Health, Government of Bihar, Patna
3. The Director-in-Chief, Health Services, Government of Bihar, Patna
4. The Regional Deputy Director, Health Services, Government of Bihar, Patna
5. The District Magistrate, Begusarai
6. The Civil Surgeon-cum-Chief Medical Officer, Begusarai
7. The Incharge Medical Officer, Primary Health Centre, Matihani, District-
Begusarai

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prabhat Kumar, Adv.
For the State	:	Mr. Subhash Chandra Mishra, SC 16

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

- 3 30-11-2022 1. This writ petition is pending since 2014. The petitioner by way of this writ petition prayed for releasing arrears of salary and current salary of the petitioner from July 2014. It is stated that he joined service on 02.07.1987 as a Civil Surgeon and has been performing his duties regularly and almost 28 years of service has been completed by him. His appointment was confirmed on 02.07.1990 and he has been granted 1st and 2nd ACP. However, from July 2014, the bill of payment was stopped on objection from the treasury that the appointment of petitioner is not valid. He prays that his salary



be therefore released as there is no cogent reason to treat his appointment as invalid once it stood confirmed in the year 1990. The respondents have filed there counter-affidavit and it is stated that the Treasury Officer Begusarai recommended that the appointment of the petitioner is illegal and the learned DM Begusarai did not find the name of the petitioner in salary register and in the absentee register of Primary Health Center, Ladanit and therefore the petitioner's salary was stopped. The DM Begusarai had issued a letter for discharge of petitioner from service and for lodging an FIR to the Director whereafter the CMO Begusarai has also written a letter following directions from the Director of Health Department. Show cause notice was given to the petitioner who has furnished reply informing about the filing of the present writ petition. No action has been taken to discharge the petitioner from service but his salary has been withheld.

2. I have considered the reply filed by the respondent. Admittedly, the petitioner has put in more than 28 years of service with the respondent and at to state that his appointment was invalid by the Treasury Officer is far-fetched. A Civil Surgeon, till he is performing his duties, is entitled to the pay scale admissible to the post. No person can be denied salary for



the work which he is performing. Denial of pay can only be in circumstance when a person is removed or dismissed from service. After following due procedure as laid down under the CCA Rules 2005, this Court finds that the entire action seems to be illegal and unjustified on part of the respondents. The same is quashed and set aside with direction to the respondents to release the salary of the petitioner along with interest at the rate of 9 per cent. The payment shall be made positively within a period of two months.

3. The writ petition is allowed with no cost.

(Sanjeev Prakash Sharma, J)

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