IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9672 of 2021

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Lakshman Ram, son of Late Din Bahur Ram, Resident of village-Chiksil, P.O.-Chogain, P.S.-Karakat, District-Rohtas (Bihar), Pin-802212.

... ... Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Road Construction Department,Government of Bihar, Vishweshraiya Bhawan, Patna.
3. The Managing Director, Department of Bihar Urban Infrastructure Development, Government of Bihar, Patna.
4. The Accountant General, Bihar, Patna
5. The Chief Municipal Commissioner, Patna Municipal Corporation, Maurya Lok, Patna.
6. The Urban Finance and Accounts Controller, Patna Municipal Corporation, Patna.
7. The Chief Engineer, Patna Municipal Corporation, Maurya Lok, Patna.
8. The Executive Engineer, Bankipore Zone, Patna Municipal Corporation, Patna.
9. The Executive Engineer, Path Pramandal, Buxar.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Santosh Kumar

For the Respondent/s : Mr. Amit Prakash (GA-1)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

ORAL JUDGMENT

Date : 18-02-2022

The matter has been heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

In the absence of notice to the respondents counter affidavit has been filed, the same is deprecated. Question of filing counter affidavit would arise if there is any urgency in the litigation like petitioner seeking any interim relief. In order to oppose interim relief, the respondents can file counter affidavit. In the present case, it is not a question of any interim relief.

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

> *"(i) For issuance of a writ of mandamus or any other writ or writs, direction or directions commanding upon the respondent authorities for the payment of salary since 14.09.2015 to 09.11.2016 pendng with BUIDCO and from 10.11.2016 to 26.11.2017 pending with Road Construction Department alongwith T.A., D.A. and other allowances.*
>
> *(ii) For the payment of salary of seven days, pay increment from December, 2012 to September, 2015, T.A. and other allowances for fifty months.*
>
> *(iii) For the payment of Rs. 85,722/- which had been wrongly deducted from the payment as royalty amount when the petitioner was posted at*

Bhabhua Path Pramandal.

(iv) For the payment of A.C.P. and house rent of six months when the petitioner was posted at Path Pramandal, Darbhanga.

(v) To pass any such other relief or reliefs as the Hon'ble Court be deem just and proper in the facts and circumstances of the case."

The aforesaid relief is supported by application dated 06.08.2019 and 10.03.2021. Even though in the counter affidavit, respondents have denied that the petitioner is not entitled. Such statement is not supported by any order. In the present case, there is a disputed fact whether petitioner is entitled for arrears of salary for the period from 14.09.2015 to 09.11.2016 and further from 10.11.2016 to 26.11.2017 alongwith T.A., D.A. and other allowances including increment from December, 2012 to September, 2015, therefore, the counter statement/affidavit cannot be appreciated that the petitioner is not entitled. In the result, competent authority is hereby directed to examine the petitioners complete service record alongwith the application and pleadings as to whether petitioner is entitled for the aforesaid relief or not. If he is entitled to any relief, the same shall be extended including monetary benefits. If he is not entitled, in that event, a detailed speaking order shall be passed with reference to service particulars and other material information as to why the petitioner is not entitled. It is to be noted that merely making statement in the counter affidavit that the petitioner is not entitled would not suffice for the reasons that petitioner cannot question the statement made in the counter affidavit, he can question only a speaking order which would affect his right. Therefore, speaking order is warranted in the present petition. The above exercise shall be completed within a period of three months from the date of receipt of this order.

With the above observation, writ petition stands disposed of.

(P. B. Bajanthri, J)

Ankit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.02.2022
Transmission Date	NA