

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1190 of 2004

Surya Narayan Paswan

... .. Petitioner/s

Versus

The State Of Bihar and others

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ram Hriday Prasad, Advocate
For the State	:	Mr. Raghwanand, GA 11

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

Date : 13-07-2022

Heard learned counsels for the parties.

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

“That this is an application for issuance of appropriate writ, order or direction to the respondents to quash the order of forfeiture of pay for the period from 23.3.93 to 30.8.95 passed by the forest conservator, Patna circle Patna-13 (Annexure-7) and to pay salary of 2.6.90 to 20.9.90 and 15.8.81 to 22.8.91 and leave salary for the period of 15.2.96 to 17.3.96 and salary for the period of 5.4.96 to 8.7.97 and for the period of and due salary from 1.7.2000 to 16.8.2000 and 14.1.01 to 13.8.01 and due salary from March 2003 to till date and for grant of all consequential benefits and to pay the bonus of the deputation period and supply uniform and T.A. and fixed T.A.”



3. Petitioner while working at Gaya, he was transferred to Biharsharif in the month of January, 1993 and he was relieved on 23.03.1993. He has approached this Court in C.W.J.C. No. 7972 of 1994. While disposing off the aforesaid petition, it is ordered as under:

“It is made clear that if the Respondents, for any reason, hold that the petitioner is not entitled for salary of any particular period, then they must give reason for the same, and also make it clear as to how the said period is to be counted in accordance with the rules, as laid down under the Bihar Service Code.

The writ petition is disposed of with the aforementioned observations and directions.”

4. It is undisputed fact that petitioner has joined at Biharsharif only on 31.08.1995 pursuant to the order of transfer issued in the month of January 1993. In all fairness the respondents - department should have resorted disciplinary action including suspension and initiation of departmental inquiry. For no reason respondents have not taken any action. In the light of these facts and circumstances, question for consideration is how to regulate intervening period from the date of relieving him from Gaya till reporting at Biharsharif that is from 23.03.1993 to 31.08.1995.



5. The official respondent have taken a decision to treat the intervening period as extraordinary leave while invoking Rule 180 of Bihar Service Code which is the subject matter of the present petition. If the aforesaid intervening period is treated as extraordinary leave, in that event the petitioner is likely to loose certain service benefits. Thus, he has presented this petition.

6. Undisputed facts are that petitioner was transferred to Biharsharif from Gaya in the month of January, 1993. His services were relieved on 23.03.1993. He had approached this Court stating that transfer order copy has not been supplied to him, in that event, the petitioner should have demanded for supply of transfer order copy. Moreover, once he has relieved from Gaya on 23.03.1993 it was bounden duty of the petitioner to report at Biharsharif. Thereafter, when he is aware of the transfer order, he cannot take undue advantage of alleged allegations that he has not been supplied order of transfer copy for about 2 years and 5 months. The observations made by this Court in respect of salary is that in the event of petitioner is not entitled for salary for the period then they must give reasons for the same. The respondents have invoked Rule 180 of Bihar Service Code suffice to indicate that question of extending salary for the aforesaid period with reference to the conduct of the petitioner in disputing the order of



transfer that too when he has been relieved from the Gaya on 23.03.1993. Due to his transfer he cannot claim salary for the period 23.03.1993 to 31.08.1995 for which period he has not worked either in Gaya or Biharsharif as is evident from the fact that he has reported in Biharsharif only on 31.08.1995.

7. In the light of these facts and circumstances, the petitioner has not made out a case.

8. Accordingly, writ petition stands dismissed.

9. At this stage, learned counsel for the petitioner submitted that the respondents were required to regulate the remaining period of unauthorized absent leave at his credit, the following are the spells i.e. from 02.06.1990 to 20.09.1990, 15.08.1991 to 22.08.1991, 15.02.1996 to 17.03.1996, 05.04.1996 to 08.07.1997, 01.07.2000 to 16.08.2000, 14.01.2001 to 13.08.2001 and further from March 2003 till January, 2004. For the certain period respondents have already passed an order on 30.11.1999 and the petitioner has not questioned the validity of such order. Having regard to the conduct of the petitioner, the petitioner is not entitled to any monetary benefits during aforesaid period. The competent authority has already regulated the aforesaid period in accordance with law and it is not questioned by the petitioner. In the light of these facts and circumstances, the



petitioner is also not entitled to any relief for the aforesaid
unauthorized absent period for the purpose of any kind of leave.

(P. B. Bajanthri, J)

GAURAV S./-

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CAV DATE	
Uploading Date	20.07.2022
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