

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.787 of 2020

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Shambhu Sharan Pal, Son of Late Kusheshwar Pal, Resident of Village-
Dudhpura, P.S.- Samastipur (Mufassil), District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department,
Government of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. The District Magistrate, Samastipur.
4. The Civil Surgeon-cum-Chief Medical Officer, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arup Kumar Chongdar, Advocate
For the Respondent/s : Mr.Binod Kumar Yadav, S.C.18

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 04-07-2022 Heard learned counsel for the petitioner and the

learned State Counsel.

On the ground of having obtained appointment based on forged documents, the service of the petitioner was terminated on 18.11.2006. The termination was assailed in CWJC No.2459 of 2007. The same came to be disposed of on 24.08.2011 and the order of termination was set aside. However, there was a clear direction in the order dated 24.08.2011 that the petitioner would not be reinstated till a final decision is taken by the Civil Surgeon, upon remand of the matter under the said order of this Court. It was further clarified that the petitioner would not be entitled to any financial benefits till he is fully



exonerated by the Civil Surgeon; and that the criminal case, which also had been filed against the petitioner for obtaining appointment based on forged certificate, would not be clubbed with the fate of the proceedings against the petitioner.

Nine years after the said order had been passed, the instant writ application has been filed seeking the relief of reinstatement.

The relief, as prayed for, if granted would be in violation of the earlier order passed in CWJC No.2459 of 2007 by a coordinate Bench and thus is not maintainable. Relevant extract of the order dated 24.08.2011 passed in CWJC No.2459 of 2007 is being quoted herein below:

“It is made clear that as the impugned order has been set aside only on the ground of principles of natural justice and the matter is to be re-enquired in the manner indicated above, the petitioner will not stand reinstated in service till a final decision is taken by the Civil Surgeon nor the petitioner will be entitled to any financial benefit till he is fully exonerated by the Civil Surgeon. At the same time it is also clarified that since the proceeding in question has been initiated prior to filing of the criminal case against the petitioner the same will not be now clubbed with the fate of the pending criminal case and a final order as indicated above will be communicated to the petitioner within a



period of six months from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, this application is disposed of.”

The petitioner cannot claim the relief prayed for in view of the clear mandate in the order of this Court, which has been quoted above.

It is not the petitioner’s case that a final decision has been taken in the proceedings by the Civil Surgeon or that he has availed any remedy for ensuring compliance of the order passed on his earlier writ petition.

The application is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

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