

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.136 of 2021

In
Civil Writ Jurisdiction Case No.8893 of 2015

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Suman Kumari, Daughter of Yogendra Prasad Thakur, W/o Umesh Thakur,
resident of village and Post Office- Balha, Via- Pusa, P.S.- Kalyanpur,
District- Samastipur at present posted on the post of A.N.M. Health Sub
Centre Bandra, Shivaji Nagar (Rosra), District- Samastipur

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Health, Govt. of Bihar, Patna.
3. The Director in Chief Health services, Govt. of Bihar, Patna.
4. The Director, Provident Fund Director, Govt. of Bihar, Pant Bhawan, Patna.
5. The Civil Surgeon - Cum- Chief Medical Officer, Samastipur.
6. The In-Charge Medical Officer, Primary Health Centre, Shiva Ji Nagar,
Rosra, District- Samastipur.
7. The Treasury Officer, Sub-Treasury Rosra, District- Samastipur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Durgesh Nandan, Advocate Ms. Manisha Prakash, Advocate
For the Respondent/s	:	Mr.S.D.Yadav, AAG-9 Mr. Prem Ranjan Kumar, AC to AAG-9

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 05-10-2023

The writ appeal is filed on the ground that the

‘concession’ recorded by the learned Single Judge, did not

actually occur and that it was not on instruction of the

petitioner; the appellant herein.

2. The claim of the petitioner was with respect to



an appointment order dated 23.03.2005. Admittedly, the appointment order was not served on time and the petitioner could eventually join only on 31.10.2011. She has been continuously working from then and the writ petition was filed, for all consequential benefits including her coverage under the Old Pension Scheme, which existed prior to 01.09.2005.

3. In the course of hearing, the learned counsel who appears for appellant conceded that only the benefit under the Old Pension Scheme is raised. The learned Single Judge considered the same and allowed the prayer for inclusion under the Old Pension Scheme.

4. Before us, without an averment in the appeal, the learned counsel for the appellant pointed out a supplementary affidavit, wherein it is stated that there was no concession before the learned Single Judge.

5. We specifically queried as to whether there was a change in counsel who appeared in the writ petition. The learned counsel appearing now for the appellant submitted that the learned counsel who was appearing for the appellant is no more. Obviously, there is a change in counsel and now a different contention is taken insofar as the concession having not been given.



6. We are unable to concede to the above contention. We notice that the appellant had not worked in the Department between 2005 to 2011 and the principle of ‘no work no pay’ squarely applies.

7. It is submitted by the learned counsel for the appellant that during the said period, the appellant had worked on contractual basis. Definitely, for such work, she had also received remuneration during the said period.

8. We also notice that in the appeal memorandum, no plea was taken that there was no concession made. The plea is now taken by way of a supplementary affidavit, which also cannot be countenanced.

9. For all the above reasons, we find absolutely no reason to entertain the appeal. The appeal stands dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
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