

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8517 of 2019

=====

Hare Krishan Roy S/o Late Siya Ram Roy Resident of Village - Shivram, Via-
Nehra, P.S. - Bahera, District - Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health and Family, Welfare, Government of Bihar, Patna.
2. The Director-in-Chief, Health Services, Government of Bihar, Patna.
3. The Regional Dy. Director, Health Services, Darbhanga Division, District - Darbhanga.
4. The Civil Surgeon-cum-Chief Medical Officer, Madhubani, District - Madhubani.
5. The In-charge Medical Officer, Primary, Health Centre, Ghoghardiha, District - Madhubani.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Himanshu Shekhar, Advocate
For the State	:	Mr.Kamlesh Kishore AC to SC 12

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 03-07-2023

Heard learned counsel for the petitioner and learned

counsel for the State.

2. The writ petition has been filed for the following

reliefs:-

*“(i) **FOR** setting aside the order of the Respondent No. - 4 i.e. the Civil Surgeon-cum-Chief Medical Officer, Madhubani contained in Memo No.- 1168 dated 14/06/2001 in light of the order dated 29/03/2011 of Hon'ble Division Bench of this Hon'ble Court passed in L.P.A. No.-230 of 2011 and analogous cases, whereby the services of the Petitioner has been terminated on the ground of his irregular/illegal appointment*



after 11 years of his appointment.

[ANNEXURE-4]

*(ii) **FOR** directions to the Respondents concerned to re-instate the services of the Petitioner and/or consider his case in light of the aforesaid order dated 29/03/2011 of Hon'ble Division Bench of this Hon'ble Court passed in L.P.A. No.-230 of 2011 and analogous cases.*

*(iii) **FOR** direction to the Respondents concerned to give all service and consequential benefits to the Petitioner with retrospective effect in case of his reinstatement from the date of his illegal termination of services.*

(iv) Any other relief/reliefs for which the Petitioner is entitled under law.”

3. For the same relief, the petitioner had earlier approached this Court vide C.W.J.C. No. 14924 of 2009 and analogous cases, wherein, this Court, by order dated 15.02.2010 had dismissed the writ application. The order passed in C.W.J.C. No. 14924 of 2009, earlier filed by the petitioner, reads as follows:-

“Petitioners have filed these writ applications for setting aside the order of their termination probably issued long time back in 1995-96. From the pleadings it is apparent that the termination order never challenged by the petitioners at any stage. Present writ applications have been filed in the light of the order passed in L.P.A. No. 946 of 2003 and analogous cases.

Considering the facts of this case, I am of the view that the direction issued in L.P.A. No. 946 of 2003 and



analogous cases has no application in the case of the petitioners.

These writ applications are dismissed.”

4. Having failed to avail the same relief, as prayed for in the earlier writ petition, the instant writ petition has been filed for the same relief.

5. This court considers it apposite to quote paragraph 20 of judgment of the Hon’ble Apex Court laying down the legal position in this regard in the case of ***State of U.P. and Another versus Labh Chand*** reported in ***(1993) 2 SCC 495***, which reads as follows:-

“20. When a Judge of Single-Judge Bench of a High Court is required to entertain a second writ petition of a person on a matter, he cannot, as a matter of course, entertain such petition, if an earlier writ petition of the same person on the same matter had been dismissed already by another Single-Judge Bench or a Division Bench of the same High Court, even if such dismissal was on the ground of laches or on the ground of non-availing of alternate remedy. Second writ petition cannot be so entertained not because the learned Single Judge has no jurisdiction to entertain the same, but because entertaining of such a second writ petition would render the order of the same court dismissing the earlier writ petition redundant and nugatory, although not reviewed by it in exercise of the recognised power. Besides, if a learned Single Judge could entertain a second writ petition of a person respecting a matter on



which his first writ petition was dismissed in limine by another learned Single Judge or a Division Bench of the same court, it would encourage an unsuccessful writ petitioner to go on filing writ petition after writ petition in the same matter in the same High Court, and have it brought up for consideration before one Judge after another. Such a thing, if is allowed to happen, it could result in giving full scope and encouragement to an unscrupulous litigant to abuse the process of the High Court exercising its writ jurisdiction under Article 226 of the Constitution in that any order of any Bench of such court refusing to entertain a writ petition could be ignored by him with impunity and relief sought in the same matter by filing a fresh writ petition. This would only lead to introduction of disorder, confusion and chaos relating to exercise of writ jurisdiction by Judges of the High Court for there could be no finality for an order of the court refusing to entertain a writ petition. It is why, the rule of judicial practice and procedure that a second writ petition shall not be entertained by the High Court on the subject-matter respecting which the first writ petition of the same person was dismissed by the same court even if the order of such dismissal was in limine, be it on the ground of laches or on the ground of non-exhaustion of alternate remedy, has come to be accepted and followed as salutary rule in exercise of writ jurisdiction of courts.”

6. In view of the settled legal position, and having regard to the order dated 15-02-2010 passed on the petitioner's earlier writ petition in CWJC No. 14924 of 2009, by a co-



ordinate Bench, this Court is not inclined to entertain this second writ application for the same relief.

7. The writ petition is dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/AFR	AFR
CAV DATE	N/A
Uploading Date	01-08-2023
Transmission Date	N/A

