

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18956 of 2013

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Sone Lal Mahto Son Of Late Bilash Mahto Resident Of Village Madanpur,
P.S. Parsauni, District Sitamarhi

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors Government Of Bihar, Patna
2. The Deputy Secretary Revenue And Land Reforms Department Government Of Bihar, Patna
3. The Deputy Director Consolidation H.O. Government Of Bihar, Patna
4. The District Magistrate Sitamarhi
5. The District Magistrate Begusarai
6. The Consolidation Officer Aurai, District- Muzaffarpur
7. The Circle Officer, Balia, District Begusarai

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nirmal Kumar Sinha-3
For the Respondent/s : Mr. Rakesh Kr Samrendra

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 23-01-2023 Heard the parties.

Admittedly, the petitioner has worked with the Office of the Collectorate, as is apparent from reply filed by the respondent from 18.01.2002 till 10.05.2002, his salary was not released for the said period by the office of the Collector, Sitamarhi for want of sanctioned post.

A counter affidavit has been filed on behalf of the Collector stating the aforesaid facts.

Similarly, a counter affidavit has also been filed on behalf of respondent nos.5 and 7 the Circle Officer, Balia,



Begusarai who has stated that the petitioner joined at Begusarai on 28.08.2002 and therefore no question arises to make payment of salary.

The respondent no.6, the Consolidation Officer, Aurari, Muzaffarpur has stated that the petitioner was adjusted at Sitamarhi District under the Collector, Sitamarhi vide order dated 15.01.2002 and was relieved from their office. Subsequently, vide State Service Consolidation order dated 19.08.2002 issued by the Additional Secretary, Revenue & Land Reforms, the petitioner was readjusted from Sitamarhi to Begusarai in the establishment of Department Collectorate of Begusarai where he joined on 29.08.2002.

Thus, from the above, it appears that the petitioner has been declared surplus on the closing of the Consolidation scheme of the government and posted with the Collectorate, vide order dated 15.01.2002 Sitamarhi. The Office of Sitamarhi Collectorate did not have a post with them and whereafter, the petitioner was subsequently re-adjusted at Begusarai Collectorate in the Establishment Department where he joined on 28.08.2002. For intervening period his joining has been shown with the Collectariate, Sitamarhi.

An employee of the State Government cannot be left



in lurch and made to suffer on account of wrongful orders passed by the respondents. The direction of the respondent posting the petitioner at Collectorate, Sitamarhi where there was no such post available, was erroneous. The correction was made by issuing a fresh order on 19.08.2002. Thus, he has been working without pay for the said intervening period.

In view of aforesaid facts, the salary of the petitioner has to be released. Question arises as to which department would be liable to release the salary.

This Court would not take upon itself the work of the State Government in deciding the department from whose account the salary is to be released for the petitioner.

The petitioner has already attained the age of superannuation and has been running pillar to post filing representations with regard to payment of the intervening salary from 01.01.2002 to 19.08.2002.

This Court, therefore, directs the Additional Secretary, Revenue and Land Reforms Department who had issued the order on 19.08.2002 to take a decision and direct the concerned Collector Office for releasing salary of the petitioner for the aforesaid intervening period and accordingly pay the same to the retired petitioner within a period of three months.



The amount of salary shall carry interest @ 9 per cent. The salary must be paid positively within a period of three months hence forthwith.

The petition is allowed.

(Sanjeev Prakash Sharma, J)

Brajesh Kumar/-
Item no.41

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