

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19681 of 2011

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Sudarshan Prasad S/O Late Ram Sundar Ram R/O House No. 19, Road No. 16,
Gardanibagh, P.S.- Gardanibagh, Distt.- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department Of Urban Development, Bihar, Patna
2. The Mayor, Patna Municipal Corporation Patna Budh Marg, P.S.- Kotwali, Distt.- Patna
3. The Municipal Commissioner Patna Municipal Corporation, Budh Marg, P.S.- Kotwali, Distt.- Patna
4. The Additional Municipal Commissioner Patna Municipal Corporation, Budh Marg, P.S.- Kotwali, Distt.- Patna
5. The Executive Officer Nutan Rajdhani Anchal, Patna Municipal Corporation, Budh Marg, P.S.- Kotwali, Distt.- Patna
6. The Office Superintendent, Head Office, Patna Municipal Corporation, Budh Marg, P.S.- Kotwali, Dist

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rabindra Nath Singh, Advocate
For the Respondent/s	:	Mr. Sanjay Prasad, AC to AAG 4
For Patna Municipal Corporation	:	Mr. Ranjeet Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 14-12-2023

Heard learned counsel for the petitioner, learned counsel appearing on behalf of Patna Municipal Corporation as well as learned counsel appearing on behalf of the State.

2. The present writ petitioner has been filed for quashing the memo no. 3819 dated 19.09.2011 issued by respondent no. 3 whereby the respondent no. 3 has been pleased to reject the application of the petitioner dated 11.12.2010 which



was filed in pursuant to the direction of this Hon'ble Court dated 19.09.2011 passed in CWJC No. 4111 of 1997.

3. Learned counsel for the petitioner submits that the petitioner was initially appointed on the post of Meth on 17.05.1977 by Patna Municipal Corporation and petitioner has joined the service on 17.05.1977. The petitioner has moved before this Hon'ble Court stating in the writ petition that prior to the appointment on the post of Safai Mazdoor, the petitioner was working/performing the duty of Sanitary Supervisor. In compliance of the order dated 10.05.1983, the Hon'ble High Court after hearing the parties has disposed of the writ petition and directed the Corporation to consider the case of the petitioner for regularization on the post of Sanitary Supervisor. Taking into account the services rendered by him on the said post w.e.f. 12.05.1983, the Corporation in compliance of the order of this Hon'ble Court has passed the order dated 19.09.2011 rejecting the claim of the petitioner which is under challenge in the present proceeding.

4. Learned counsel for the petitioner further submits that the similarly situated person namely, Shukhu Prasad has been granted benefit of salary on the post of Assistant and the Corporation has denied the same to the petitioner. So direction



may be issued to the Corporation to pay the actual pay scale on the post of Sanitary Supervisor and all the consequential benefits to the petitioner.

5. Learned counsel for the Corporation on the other hand vehemently opposed the prayer and submits that the petitioner was initially engaged as daily wager on the post of Meth vide order No. 383, Memo No. 566 dated 17.05.1977. He further clarified that the Meths are also Safai Mazdoors and it has been found during inspection that the petitioner was not doing Sanitary work and as such he along with other persons have been removed from the said post in question with immediate effect (w.e.f. 27.09.1978). The petitioner has approached the Hon'ble High Court in CWJC No. 5094 of 1978, which was subsequently withdrawn on 11.07.1979. He further submits that vide order contained in Memo No. 648 dated 27.09.1978 was recalled and the petitioner was directed to work as he was doing earlier i.e. Meth.

6. Thereafter, the petitioner was appointed provisionally on the post of Safai Mazdoor in the pay scale of Rs. 350-425/- pursuant to the order of the Circle Officer Order No. 15, Memo No. 52 dated 18.01.1984.

7. Learned counsel for the Corporation further submits



that without following the due process and without Roster clearness the petitioner was posted to work as in-charge Tax Collector vide order dated 26.11.1997 but the petitioner was neither allowed to work permanently nor he was promoted in scale, he was only asked to work as in-charge for stop gap arrangement and thereafter, the petitioner has moved before this Hon'ble Court in CWJC No. 4111 of 1997 and pursuant to the order passed in the aforesaid writ petition the petitioner has filed a representation before the authority and authority has rejected the same which is challenged in the writ petition.

8. In compliance of the different order passed by this Hon'ble Court, the Municipal Commissioner reverted the employee of the Corporation on the original post vide order dated 11.09.2008 and the petitioner was also reverted back from his original post and as such the claim of the petitioner is not sustainable in the eye of the law.

9. Learned counsel for the Corporation further submits that that petitioner has retired in the year 2015 and the Corporation has rightly rejected the claim of the petitioner and passed a clean order which is impugned in the present writ petition.

10. In view of the aforesaid, it appears that the petitioner



is not entitled to the arrears of salary on the post of Sanitary Supervisor because he was never appointed on the said post in question.

11. Accordingly, there is no merit in the writ petition and the same is dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.12.2023
Transmission Date	N/A

