

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12583 of 2021

Dr. Shashi Kumar Gupta S/o Late Narayan Pd. Gupta R/o Mohalla - Ram Das
Gupta Path, laheritola, P.S. - Tatarpur, Town and District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Govt. of Bihar, Patna.
2. The Joint Secretary, Department of Health, Medical Education and Family Welfare, Govt. of Bihar, Patna.
3. The Deputy Secretary, Department of Health, Medical Education and Family Welfare, Govt. of Bihar, Patna.
4. The Director - in - Chief, Department of Health, Govt. of Bihar, Patna.
5. The Accountant General, Bihar, Veer Chand Patel Path, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Purushottam Kumar Jha, Advocate
For the Respondent/s : Mr.Binod Kr. Yadav (SC 18)

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 09-10-2023

Heard Mr. Purushottam Kumar Jha, learned counsel
appearing on behalf of the petitioner and Mr. Binod Kumar Yadav,
learned SC 18 for the State.

2. Mr. Purushottam Kumar Jha, learned counsel
appearing on behalf of the petitioner submits that a counter
affidavit has been filed on behalf of the respondents, however, the
respondents have not been able to give details with respect to the
period of break in service of the petitioner and the action of the
respondents of withholding all terminal benefits after his
retirement on 31.01.2015 from the post of Medical Officer, on
attaining the age of superannuation, is illegal.

3. Learned counsel refers to paragraph no.12 of the
counter affidavit filed on behalf of the respondent no.1, in which



the respondents have made a vague statement without any evidence that the Health Department, vide letter no.960 (2) dated 17.05.2010 (**Annexure- '10'** to the writ petition) had communicated to the petitioner that his claim regarding being on waiting for posting from 16.03.1992 has already been rejected. In spite of the specific order of this Court, the Health Department till date has also not furnished any evidence in support of the rejection of the claim of the petitioner.

4. Considering the aforesaid submissions made on behalf of the petitioner, as well as, perusal of the statement made in the counter affidavit, the facts reveal that a departmental proceeding was contemplated against the petitioner under Rule 43(b) of the Bihar Pension Rules, 1950, however, the counter affidavit is silent with respect to the result of the departmental proceeding. In paragraph no.10 of the counter affidavit filed on behalf of the Respondent nos. 1 to 4, certain facts with respect to the action of the State Government has been informed, however, they have themselves accepted in paragraph 13 that in spite of order of this Court, no evidence has been brought in support of the departmental letter no.960(2) dated 17.5.2010. Such communication also finds reference in letter no.950 (2) dated 15.4.2019, which shows that the department has shifted liability on



the petitioner, who, for no reason, can be held responsible to answer the query in absence of any evidence for withholding the retiral benefits payable to the petitioner.

5. The order as contained in Memo No.449 (2) dated 17.03.2021 (**Annexure -20**) has lost its force and is accordingly held inoperative in want of any proceeding.

6. The petitioner, if so advised, may file a detail representation before the authority concerned for redressal of his grievance. The authorities concerned are directed to take steps to make payment of all the retiral dues to the petitioner, as claimed for in the present writ petition, from the date of communication of this order in accordance with law.

7. The original document, which was handed over in compliance of order of this Court, has been returned back by Ms. Ritika Rani, learned counsel appearing on behalf of the Accountant General (Bihar) to the petitioner.

8. The writ petition is accordingly disposed of.

(Purnendu Singh, J)

chn/-

AFR/NAFR	
CAV DATE	
Uploading Date	11.10.2023
Transmission Date	

