

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13151 of 2021

Dr. Brij Kishor Prasad S/o Ram Sundar Prasad R/o Village- Chaungai, P.S.-
Karakat, District- Rohtas, Bihar. Presently Residing at Bandhan Tola Near
Chhatriya School, Arrah, Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Health, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Health, Govt. of Bihar, Patna.
3. The Under Secretary, Health Department, Govt. of Bihar, Patna.
4. The Deputy Secretary, Health Department, Govt. of Bihar, Patna.
5. The Civil Surgeon cum Chief Medical Officer, Rohtas, Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Surendra Kumar Singh, Advocate
For the Respondent/s : Mr.Nagendra Pd. Yadav (Sc23)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 13-12-2023 1. The present writ petition has
been filed seeking the following reliefs:-

"(i) To issue an appropriate writ, order or direction commanding the Respondents to pay the due salaries to the Petitioner for the period from March 2018 to till date forthwith without any further delay even after regularising his services for the leave period.
(ii) To issue further appropriate writ, order or direction commanding the Respondents to issue an order of Posting transferring the Petitioner from the post of Deputy Superintendent cum Assistant Chief Medical



Officer (Non Conventional Diseases), Rohtas Sasaram to any other appropriate equivalent post under the jurisdiction of the Civil Surgeon-cum Chief Medical Officer, Bhojpur Ara, preferably in Ara Sadar Hospital during the last phase of his Service Tenure as per law, considering the personal difficulties of the petitioner including ailments of the Petitioner as also the serious ailments of his wife.

(iii) And alternatively if the posting of the Petitioner as per his choice in Sadar Hospital Ara or under the jurisdiction of Civil Surgeon-cum Chief Medical Officer, Bhojpur Ara, is not possible then the Petitioner should be allowed Voluntary Retirement from his Service with all due service benefits.

iv) This Hon'ble Court may adjudicate and hold that it is the statutory duty of the Respondent Authorities to pay the salaries to the Petitioner for the period from March 2018 to till date.

(v) This Hon'ble Court may further adjudicate and hold that under the law it is the statutory duty of the Respondent Authorities to post the Petitioner from the post of Deputy Superintendent cum Assistant Chief Medical Officer (Non Conventional Diseases), Rohtas Sasaram to any other appropriate equivalent



post under the jurisdiction of the Civil Surgeon-cum Chief Medical Officer, Bhojpur Ara preferably in Ara Sadar Hospital, on his request during the last phase of his Service Period.

(vi) This Hon'ble Court may further adjudicate and hold that considering the fact that the Petitioner is suffering from severe diabetes and Blood pressure including the heart ailments (Coronary Artery Diseases) and similarly his wife is also a severe bed-ridden patient of Sciatica for the last five years as such under the law, it was the duty of the Respondent Authorities, considering the personal difficulties of the Petitioner to take sympathetic view and further post him at the place of his choice at Ara, during the last phase of his Service Tenure.

(vii) This Hon'ble Court may adjudicate and hold that action of Respondents in not deciding bona-fide claim of the payment of the salaries of the Petitioner for such a long period is an act of mala- fide nature and practically a fraud upon the power vested with the Respondents Authorities.

(viii) This Hon'ble Court may further adjudicate and hold that inaction on the part of the Respondents and undue delay made in making the payment of the salaries of the



Petitioner for the period from March 2018 to till date is a mala fide act and absolute arbitrary exercise of power/authority by the Respondents.

(ix) To issue an appropriate writ, order or direction commanding the Respondents to pay the cost of litigation and suitable compensation to the Petitioner for the loss and damages caused to the Petitioner by causing undue delay in finalising the grievances of the old, ailing and helpless Petitioner."

2. At the outset, the learned counsel for the petitioner seeks liberty on behalf of the petitioner to approach the Additional Chief Secretary, Health, Govt. of Bihar, Patna for redressal of his aforesaid grievances. Liberty, so sought, is granted.

3. It is needless to state that in case appropriate representation is filed by the petitioner before the Additional Chief Secretary, Health, Govt. of Bihar, Patna, within a period of two weeks from today, appropriate decision shall be taken thereon, by passing a reasoned and a speaking order, in accordance with law, within a period of six weeks,



thereafter.

4. The writ petition stands disposed off on
the aforesaid terms.

(Mohit Kumar Shah, J)

kanchan/-

U			
---	--	--	--

