

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1591 of 2018

Sanjay Kumar, Son of late Mangal Mahto, Resident of Village- Ekdara, P.S.
Bibhutipur, District- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Begusarai.
3. The District Establishment Additional Collector, Begusarai.
4. The Block Development Officer, Sahebpur, Kamaal, Begusarai.
5. The Circle Officer, Bhagwanpur, Begusarai.
6. The Circle Officer, Khodawandpur, Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Deepak Prasad Sinha, Advocate
		Ms. Nuzhat Perween, Advocate
For the Respondent/s	:	Mr.Md. Nadeem Seraj, GP-5

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 03-10-2023

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for
directing the respondent authorities to allow the petitioner to
join on the post of night guard in Sahebpur Kamal Block.

3. Learned counsel for the petitioner submits that vide
Memo No. 821, dated 21.05.1993 issued under the signature of
the District Magistrate, Begusarai, the petitioner was appointed
as peon, on compassionate ground, as contained in Annexure -1



to the writ petition. After joining, the petitioner was performing his duty as night guard in Bhagwanpur, but vide Memo No. 1294 dated 06.09.2013, he was transferred to Shahebpur Kamal Block. Thereafter, the petitioner was relieved from Bhagwanpur circle vide memo no. 329 dated 26.07.2014 with an order to join the place of transfer, i.e. Block Office- Sahebpur Kamal.

4. Learned counsel for the petitioner further submits that in the meantime, the petitioner fell seriously ill and for that he had to remain under treatment from 01.08.2016 to 30.08.2016. The petitioner became fit on 31.08.2016 and, thereafter, he went to Sahebpur Kamal Block and filed an application on 01.09.2016 stating therein that due to illness, he was absent from 01.08.2016 to 31.08.2016 and requested respondent No.4, namely, the Block Development Officer, Sahebpur, Kamaal, Begusarai to accept his joining with effect from 01.09.2016, but his joining was not accepted by respondent No.4. Thereafter, the petitioner sent several applications through speed post on 06.09.2016, 26.09.2016, 03.10.2016 and 27.12.2016 to respondent No.2 with a prayer to allow him to join as his family is suffering from starvation and the education of his children also got affected, but the respondent authority did not take any heed, hence, the present



writ petition.

5. Learned counsel for the State submits that a counter affidavit has been filed in this case from which it transpires that respondent No.4 vide his letter No. 1688 dated 30.11.2016 intimated the Senior Deputy Collector (Establishment) that neither the petitioner came to the office to join his duty nor he has filed any application with regard to joining. He further submits that vide letter no. 1099 dated 29.09.2016 issued by the Senior Deputy Collector (Establishment), the petitioner was directed to submit an explanation regarding absence from the working place without any information through answering respondent No.4 within one week, but the petitioner failed to submit his explanation.

6. It is further submitted that the Senior Deputy Collector (Establishment), Begusarai sent a letter no.1348 dated 30.11.2016 to the Sub-Divisional Police Officer, Ballia, directing him to get an explanation from the petitioner and sent his report with his opinion, as contained in Annexure-D to the counter affidavit.

7. Pursuant to the said direction, the Sub-Divisional Officer, Ballia has submitted his report with opinion vide letter No. 490 dated 14.03.2018, stating therein that the petitioner has



not submitted relevant document which suggests that he has not submitted application to join his duty, as contained in Annexure-E to the counter affidavit. Subsequently, the Senior Deputy Collector (Establishment) vide letter no. 1216/Estb. Dated 22.10.2016 directed the Block Development Officer, Sahebpur Kamal to make known the District Magistrate what is the reason for not accepting joining of the petitioner.

8. It is further submitted that the application of the petitioner dated 26.09.2016, as contained in Annexure-6 to the counter affidavit submitted to the District Magistrate, Begusarai suggests that the petitioner was going to join Circle Office, Bhagwanpur where he was initially posted, but the Circle Officer, Bhagwanpur reported vide letter no.83 dated 15.03.2018 that the petitioner has not joined in the Circle Office, Bhagwanpur. From the aforesaid it appears that that on the one hand, the petitioner did not give any response to his officials under him he has to discharge his duties but on the other hand he has filed the present writ petition before this Court stating therein that he is interested to give his joining at the place of transfer.

9. In the light of the submissions made by the parties and pleadings made, it is directed that the Block Development



Officer, Sahebpur Kamal shall accept the joining of the petitioner within two weeks from the date of receipt/production of a copy of this order before him.

10. It is made clear that the present order shall not come in the way of the authority to take appropriate action against the petitioner including initiation of departmental proceeding, if required, in accordance with law, after accepting the joining of the petitioner within two weeks and conclude the said proceeding, if initiated, within six months thereafter.

11. The petitioner is also directed to visit the office of Block Development Officer, Sahebpur Kamal within 2 weeks from the date of publication of order. If petitioner fails to join within said period, the order passed about acceptance of joining by this Court shall be inoperative.

12. With the above observation and direction, the writ petition stands disposed of.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	05/10/2023
Transmission Date	NA

