

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17508 of 2023

Sanjeev Kumar Son of Sri Chhotu Narayan Singh, Resident of village -
Pandeypur, P.O.- Neora, P.S. - Bihta, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Law Department, Govt. of Bihar, Patna.
2. The Secretary, Law Department, Govt. of Bihar, Patna.
3. The Secretary, Department of Cabinet Secretariat, Government of Bihar, Patna.
4. The Special Secretary, Law Department, Govt. of Bihar, Patna.
5. The Advocate General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rishikesh Ojha
For the Respondent/s : Mr.Standing Counsel (11)

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 21-12-2023 Heard the parties.

2. This writ application was filed on behalf of the
petitioner for the following relief earlier:-

a) For seeking a direction to the respondent
authorities to consider the petitioner's representation dated
16.11.2023 submitted in the light of liberty granted by this
Hon'ble Court vide order dated 07.11.2023 passed in C.W.J.C.
No. 7079 of 2023 and thereby shift the date of joining of the
petitioner on the post of Under Secretary (External) to the then
Advocate General, Bihar with effect from 21.12.2017 at the
place of 18.11.2022 and pay the consequential



salary/remuneration.

3. Thereafter an I.A. Application bearing I.A. No. 01 of 2023 has been filed by the petitioner for amending the prayer portion and the proposed amendment reads as follows:-

a) For setting aside the order contained in Memo No. 9564 dated 15.12.2023 issued with the signature of Secretary (Administration), Law Department, Bihar, Patna whereby representation of the petitioner dated 16.11.2023 has been rejected.

4. For the reasons mentioned in the interlocutory application, the same is allowed and the proposed amendment as mentioned above shall be treated as a part of the main writ petition.

5. The contention of the learned counsel for the petitioner is that the Resolution No. 502 dated 08.03.2007 issued by the Cabinet Secretariat, Government of Bihar, Patna clearly prescribes that certain facilities including the facility of keeping Personal Secretary (External) shall be treated to be effective w.e.f. the date of appointment of the Minister itself.

6. It has further been submitted by the learned counsel for the petitioner that Mr. Lalit Kishore, Senior Advocate of this Court was appointed as Additional Advocate



General, Bihar in the year 2005 and on his recommendation the petitioner was appointed his official clerk in the year 2007 itself and later when Mr. Lalit Kishore, the then PAAG was appointed as Advocate General, State of Bihar and even thereafter the petitioner continued working as his Clerk/Personal Secretary (Personal) as per the Government records.

7. It has further been submitted by the learned counsel for the petitioner that Mr. Lalit Kishore, the then Advocate General, Bihar was given the status of Minister vide notification Memo No. 7632/J dated 21.12.2017 issued by the Department of Law and the petitioner, who was already working as clerk to Mr. Lalit Kishore started working as his Personal Secretary (External) with effect from 21.12.2017 but no such notification was issued by the Government for his appointment as Personal Secretary (External) to the then Advocate General and for the appointment of the petitioner as Personal Secretary (External), the then Advocate General vide his letter No. 1 dated 20.01.2022 requested the Secretary, Cabinet Department, Government of Bihar, Patna.

8. It has further been submitted by the learned counsel for the petitioner that from the perusal of the letter of the then Advocate General dated 20.01.2022 it will transpire



that the then Advocate General had clearly stated that the petitioner was already attached with him for a long period and is providing assistance to him.

9. It has further been submitted by the learned counsel for the petitioner that the then Advocate General reiterated his request vide his letters dated 24.02.2022 and 06.09.2022 and pursuant to the several recommendations, the petitioner was appointed as Personal Secretary (External) vide Memo No. 9411 dated 18.11.2022 issued by the Department of Law, Government of Bihar and from the perusal of the memo dated 18.11.2022 it will transpire that the petitioner was appointed as Personal Secretary (External) to the then Advocate General on monthly emoluments of 53,100/- along with admissible dearness allowances and the petitioner pursuant to the aforesaid memo joined on 18.11.2022 irrespective of the fact that he was already working as Personal Secretary and the joining of the petitioner was accepted from 18.11.2022 and the petitioner submitted one application before Secretary, Law Department, Government of Bihar, Patna to treat his service with effect from 21.12.2017, the date when the then Advocate General, Bihar was given status of a Minister.

10. Learned counsel for the petitioner submits that



the application dated 11.01.2023 filed by the petitioner was rejected by the impugned order dated 15.12.2023 without hearing the petitioner.

11. It has also been contended by the learned counsel for the petitioner that the impugned order dated 15.12.2023 is bad in law as the same has been passed without hearing the petitioner.

12. Learned counsel for the State has opposed the prayer of the petitioner and has submitted that petitioner cannot get the payment from 2017 as the recommendation by the then Advocate General for the first time was made on 20.01.2022 for appointing the petitioner as Personal Secretary (External).

13. I have considered the submission of the parties.

14. It is not in dispute that the petitioner was working as Personal Secretary (External) to the then Advocate General, Bihar. The only dispute which has to be decided is that whether the petitioner will get his salary from 2017 since when he was working or from the date of his recommendation that is 20.01.2022.

15. I am of the view that petitioner is entitled to the payment of Personal Secretary (External) from the date on which he was recommended by the then Advocate General,



Bihar.

16. In these circumstances, this application is partly allowed.

17. Accordingly, the respondents are directed to treat the petitioner as Personal Secretary (External) from 20.01.2022 and will pay the emoluments admissible to him from 20.01.2022 within two weeks from the date of receipt/communication of a copy of this order.

18. Let a copy of this order be communicated to the Law Secretary, Bihar through FAX and e-Mail for its compliance forthwith.

Vikas/-

(Sandeep Kumar, J)

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