

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9380 of 2016

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Md. Sanaullah Son of Late Sheikh Nathuni Resident of Village and P.O. Karsahiya, P.S. Dhaka, District-East Champaran at Motihari

... .. Petitioner/s

Versus

1. Nagar Panchayat, Dhaka through the Chief Councilor, District- East Champaran at Motihari
2. The Chief Councilor, Nagar Panchayat, Dhaka, District- East Champaran at Motihari
3. The Executive Officer Nagar Panchayat, Dhaka, District- East Champaran at Motihari

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar -Manglam
Mr. Awnish Kumar, Advocates

For the Nagar Panchayat
(now Nagar Parishad, Dhaka): Mr. Prashant Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 13-02-2024

Heard learned counsel for the petitioner and learned counsel appearing on behalf of the Nagar Parishad.

2. The present writ petition has been filed for quashing the order dated 03.05.2016 issued by the respondent no. 3 by which the petitioner has been directed to surrender the entire amount received by him by way of salary in the office of Nagar Panchayat within 15 days from the date of receipt of the letter failing which F.I.R. would be lodged against the petitioner and apart from that a certificate case would be filed for recovery of the amount.



3. Learned counsel for the petitioner submits that the petitioner was appointed as Tax Daroga on 03.04.1987 after approval from the Urban Development Department.

4. Since 1987, the petitioner was continuously discharging his duties and he has retired from service with effect from 31.07.2011, and after about 19 years of his appointment the present impugned order was passed without issuing any show cause notice to the petitioner. Learned counsel for the petitioner further submits that the service of the petitioner was confirmed by the competent authority on 03.04.1987 itself with effect from 17.01.1987. Learned counsel for the petitioner further submits that from perusal of the Annexure- R3-A it appears that the respondent has taken stand that the age for appointment of the petitioner was between 18 to 27 years and when the petitioner was appointed on the post in question he was aged about 35 years and six months. Learned counsel for the petitioner further submits that the petitioner retired from the post in question with effect from 31.07.2011 and after five years of his retirement the present impugned order has been passed by the authority concerned, without following the principal of natural justice or any proceedings.

5. Learned counsel for the State submits that the respondents have filed a counter affidavit stating therein that as per Municipal Notification although the petitioner has retired from the



post in question and on the basis of audit report the present impugned order has been passed against the petitioner and fairly submits that without any show cause notice the present impugned order has been passed. Learned counsel for the respondents submits that no action has been taken against the petitioner as yet pursuant to the impugned order.

6. In view of the aforesaid, the impugned order dated 03.05.2016 is hereby set aside and the petitioner is entitled for all consequential benefits, the respondents are directed to release the same within eight weeks from the date of receipt/production of a copy of this order.

7. The writ petition stands allowed.

(Rajesh Kumar Verma, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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