

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8135 of 2021

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Maya Ghosh, Wife of Vijendra Ghosh, resident of Jai Prakesh Lane, New Area Jakkanpur, P.S. Gardanibagh at and District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Director-in-Chief, Medical Education and Family Welfare, Government of Bihar, Patna.
3. The Additional Director (Family Welfare Administration), Health Department, Government of Bihar, Patna.
4. The Civil Surgeon-cum-Chief Medical Officer, Purnea.
5. The Treasury Officer, Purnea.
6. The Medical Officer, Kasba, Purnea.
7. The Accountant General (A and E), Bihar at Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhola Kumar, Advocate
For the Respondent/s : Mr. Ravi, AC to GP-13

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CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 23-02-2024

Heard learned counsel for the parties.

2. The petitioner, who was retired from the post of Lady Health Visitor on attaining the age of superannuation on 31.07.2018, has filed this writ petition for payment of pension, gratuity, group insurance amount, leave encashment etc., The petitioner has also prayed for arrears of salary of the petitioner for the period 06.12.1993 to 30.05.2004.

3. The respondents have filed a counter affidavit as



well as supplementary counter affidavit.

4. On the basis of the counter affidavit filed, learned counsel for the petitioner has submitted that the petitioner has been paid all the retirement dues, except the arrears of salary of the petitioner for the period 06.12.1993 to 30.05.2004.

5. Insofar as, arrears of salary of the petitioner for the period 06.12.1993 to 30.05.2004 is concerned, in paragraph no. 9 of the supplementary counter affidavit filed by respondent nos. 1 to 3, it has been stated that by departmental letter no. 515(6) dated 22.06.2022, the unauthorized absence period of the petitioner from 06.12.1993 to 30.05.2004 has been regularized by treating the same as extraordinary leave period on the basis of 'No Work No Pay' in the light of Rule 236 of the Bihar Service Code and the said period has been counted for pensionary benefits.

6. The petitioner has filed rejoinder to the supplementary counter affidavit filed by the respondent nos. 1 to 3, wherein in paragraph no. 6 thereof, it has been contended that the petitioner is entitled to arrears of salary for the period mentioned above with interest, as no proceeding under Rule 43(b) of the Bihar Pension Rules, 1950 is pending and decided against the petitioner. It has been further stated that no



proceeding for withholding of salary of the petitioner was ever initiated by the respondent authorities. Thus, principle of 'No Work No Pay' is not applicable in the instant case.

7. I have considered the rival submissions of the parties.

8. Though, it has been contended by the petitioner that unless the departmental proceeding is drawn up against the petitioner for her remaining absent from the duties unauthorizedly for the period mentioned above and such proceeding is concluded against the petitioner in terms of Rule 43(b) of the Bihar Pension Rule, the principle of 'No Work No Pay' cannot be made applicable to the petitioner.

9. Be that as it may, since the respondent authorities had passed an order on 22.06.2022, vide departmental letter no. 515(6), as mentioned in paragraph no. 9 of the supplementary counter affidavit filed by the respondent nos. 1 to 3, treating the unauthorized absence of the petitioner for the period from 06.12.1993 to 30.05.2004, as extraordinary leave on the basis of 'No Work No Pay' in the light of Rule 236 of the Bihar Service Code, which remains unchallenged by the petitioner, I am of the view that no direction in the instant case can be given to the respondent authorities to pay arrears of salary of the petitioner



for the period 06.12.1993 to 30.05.2004, on which period the petitioner remained unauthorizedly absent from duty.

10. This writ petition, therefore, shall stand closed with a liberty given to the petitioner to challenge the order dated 22.06.2022, passed by the respondent authorities by departmental letter no. 515(6), purportedly under Rule 236 of the Bihar Service Code, if so advised.

(Nani Tagia, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.02.2024
Transmission Date	N/A

