

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4732 of 2022

Navin Kumar Singh, son of Nageshwar Prasad Singh, Resident of Vill-Godihari (Saidpur), P.S. Gopalpur, Navgachiya, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Executive Director, State Health Society Bihar, Parivar Kalyan Bhawan, Sheikhpura, Patna.
3. The Commissioner Bhagalpur Division, Bhagalpur.
4. The District Magistrate cum Chairman District Health Services, Bhagalpur.
5. The Civil Surgeon cum Member Secretary, District Health Committee, Bhagalpur.
6. The Controlling Officer, District Vector borne Diseases, Bhagalpur.
7. The Medical Officer In-charge, Primary Health Center, Gopalpur, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sagar Suman, Adv.
For the Respondent/s : Mr.S. D. Yadav, AAG-9

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 23-01-2024

1. The present writ petition has been filed for quashing the order dated 04.02.2020, passed by the Civil Surgeon-cum-Member Secretary, District Health Committee, Bhagalpur, whereby and whereunder the claim of the petitioner for grant of unpaid wages has been rejected. The petitioner has further prayed for directing the respondents to pay wages for the period he has worked on daily wage basis, i.e. for the period 27.09.2011 to 28.02.2014.



2. The brief facts of the case, according to the petitioner are that the petitioner was initially directed to perform his duties at the Primary Health Centre, Gopalpur, by the Rogi Kalyan Samiti, vide office order dated 27.09.2011, issued by the In-charge Medical Officer, Primary Health Centre, Gopalpur, (Bhagalpur), however, with a stipulation that in case his work is unsatisfactory, he shall be removed from his duties without any notice. It is the further case of the petitioner that he had worked at Primary Health Centre, Gopalpur, with effect from 27.09.2011 to 28.02.2014, however, he was not given the wages, whereafter he had approached the Public Grievance Redressal Officer, Naugachiya, Bhagalpur by making a complaint on 14.12.2017. The Public Grievance Redressal Officer, Naugachiya, Bhagalpur is stated to have passed an ex-parte order dated 12.03.2018, in view of the fact that the then In-charge Medical Officer, Primary Health Centre, Gopalpur (Bhagalpur), had neither submitted his reply nor appeared. The Public Grievance Redressal Officer, Naugachia, Bhagalpur, in his aforesaid order dated 12.03.2018, held that the petitioner was appointed by Dr. Modnath Singh Thakur and others by fabricating documents and against the



Government Rules. Thereafter, the petitioner had filed a writ petition bearing C.W.J.C. No.19524 of 2019, however, the same was disposed off by an order dated 05.11.2019, passed by a co-ordinate Bench of this Court, wherein it was held that since the selection process was not undertaken at the time of initial engagement of the petitioner, his initial engagement itself is illegal, thus the engagement of the petitioner cannot be ordered to be regularized. Nonetheless, the learned Single Judge of this Court had asked the Civil Surgeon-cum-Member Secretary, District Health Committee, Bhagalpur, to examine the case of the petitioner, limited to the issue regarding unpaid wages being due to be paid to the petitioner. The Civil Surgeon-cum-Member Secretary, District Health Committee, Bhagalpur, had then examined the case of the petitioner and vide order dated 04.02.2020, has rejected the claim of the petitioner, inter alia coming to a finding that the appointment of the petitioner on daily wage basis itself was illegal inasmuch as the meeting held on 13.09.2011 of the Rogi Kalyan Samiti lacked the appropriate quorum.

3. The learned counsel for the petitioner has submitted that there are ample proof on record to show that the petitioner had worked from 27.09.2011 to 28.02.2014, but still



he has not been paid any wages, hence the respondents be directed to make payment of wages to the petitioner.

4. Per contra, the learned counsel for the respondents has submitted, by referring to the counter affidavit filed in the present case that the then Civil Surgeon-cum-Member Secretary, pursuant to the aforesaid order dated 05.11.2019, passed by a co-ordinate Bench of this Court, had examined the entire case of the petitioner and had concluded that the appointment of the petitioner as daily wage worker by the Rogi Kalyan Samiti on 13.09.2011 had already been cancelled by the then In-charge Medical Officer, Primary Health Centre, Gopalpur, (Bhagalpur), on the same day, i.e. on 13.09.2011, hence there is no question of any wages being due to be paid to the petitioner, thus the claim of the petitioner for payment of wages has rightly been rejected.

5. I have heard the learned counsel for the parties and perused the materials available on record, from which it is apparent that earlier the petitioner had moved this Court by filing a writ bearing C.W.J.C. No.19524 of 2019, however, the claim of the petitioner for regularization was turned down, hence as far as this aspect of the matter is concerned, the same has attained finality and requires no further consideration.



6. Now, coming to the issue of payment of outstanding wages, this Court finds that the respondents have categorically stated in paragraph no.7 of the counter affidavit, filed in the present case on behalf of the respondent no.5 that since the appointment of the petitioner as daily wage worker, by Rogi Kalyan Samiti on 13.09.2011 had then and there been cancelled by the then In-charge Medical Officer, Primary Health Centre, Gopalpur, (Bhagalpur), on the very same day, i.e. on 13.09.2011 itself, there is no question of payment of any wages to the petitioner, a fact which has not been disputed by the petitioner inasmuch as no rejoinder affidavit has been filed, thus, this Court is left with no option but to accept the fact that since the daily wage engagement of the petitioner on 13.09.2011, by the Rogi Kalyan Samiti had stood cancelled on the very same day, the natural corollary would be that the petitioner had not worked even for a single day, thus his claim for payment of wages can neither be entertained nor is tenable in the eyes of law. Even if the contention of the petitioner, to the effect that he had put in attendance from 27.09.2011 to 28.02.2014, is assumed to be of any worth but then the fact remains that the respondents have categorically refuted the same, hence such disputed question of facts cannot be



adjudicated in a writ petition under Article 226 of the Constitution of India.

7. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.03.2024
Transmission Date	NA

