

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10239 of 2012

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Yogendra Jha Son Of Late Bechan Jha Resident Of Village - Ughra, P.S.-
Bahadurpur, District - Darbhanga

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Department of Science and Technology,
Government Of Bihar, Patna
3. Additional Secretary, Department of Science and Technology, Government
Of Bihar, Patna
4. District Magistrate, Darbhanga Cum Managing Director Of Dr. Jagannath
Mishra Insititute Of Technology, Mabbi, Darbhanga At Present Known As
Darbhanga College Of Engineering, Darbhanga
5. Director, Science and Technology, Government Of Bihar, Patna
6. Officer-On-Special Duty Of Darbhanga College Of Engineering , Darbhanga
(Earlier Dr. Jagannath Mishra Institute of Technology), Mabbi, Darbhanga.
7. Mithila Vikash Sansthan, through its General Secretary, Dr. Vinod Chandra
Jha Son Of Late Pandit Navonath Jha Resident Of Hospital Road, P.S.
Madhubani Town, District Madhubani

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur Ms. Vaishnavi Singh, Advocates
For the Respondent/s	:	Mr. Gyan Shankar, AC to GP-2

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 11-03-2024

Heard Mr. Ajay Kumar Thakur, learned counsel for the
petitioner and Mr. Gyan Shankar, learned AC to GP-2 for the
State.

2. The present writ petition has been filed for setting
aside the order as contained in Memo No. 294 dated 31.01.2012
passed by the Principal Secretary, Department of Science and



Technology, Government of Bihar, Patna (respondent no. 2) by which the respondent no. 2 has been pleased to reject the claim of the petitioner pursuant to the direction of this Court passed in C.W.J.C. No. 2578 of 2009 by order dated 12.07.2011.

3. Learned counsel for the petitioner submits that earlier the petitioner has moved this Hon'ble Court in C.W.J.C. No. 9191 of 2001 which was disposed of with a direction to the District Magistrate-cum-Collector, Darbhanga (respondent no. 4) to initiate an enquiry and conclude within a period of two months and pursuant to that direction the District Magistrate-cum-Collector, Darbhanga has conducted an inquiry and submit a report in favour of the petitioner by order dated 11.03.2008 (Annexure-49 of the writ petition). Despite of that, the case of the petitioner was forwarded by the District Magistrate, the respondents have not considered the case of the petitioner and again reject the claim of the petitioner (vide Annexure-53) by the respondent no. 2 by order dated 03.11.2008 and thereafter the petitioner had also challenged the same before this Court in C.W.J.C. No. 2578 of 2009 and after hearing the parties this Court has held :

“ Therefore, to arrive at a decision on “reasonableness” the court has to find out if the administrator has left out relevant factors or taken into



account irrelevant factors. The decision of the administrator must have been within the four corners of the law, and not one which no sensible person could have reasonably arrived at, having regard to the above principles, and must have been a bona fide one. The decision could be one of many choices open to the authority but it was for that authority to decide upon the choice and not for the court to substitute its view.

The Court now directs the Secretary to pass a reasoned and speaking order discussing the nature of the contents of the aforesaid documents and then arrive at the finding disclosing full application of mind by him to the contents, the thought process of his mind duly reflected in the order to facilitate judicial review if the need arises. The Secretary shall bear in mind that this was the third round of litigation pursued by the petitioner before this Court.”

4. Learned counsel for the petitioner submits that pursuant to the direction of this Court, the petitioner has filed exhaustive representation before the respondent no. 2 along with all the supporting documents but the respondent no. 2 without considering the documents submitted by the petitioner and again



rejected the claim of the petitioner on the ground that there is no proof with respect to the petitioner that the petitioner is getting salary from the Institution in question.

5. Learned counsel for the petitioner further submits that he has already filed a copy of the salary register of the month of November, 1983, March, 1984, May, 1985, November, 1986 and also annexed a copy of the attendance register of the petitioner in the month of December, 1983, March, 1984, May, 1985, October, 1986, December, 1983 and on that basis the learned District Magistrate has recommended the case of the petitioner to the Secretary of the Department and all the documents which was annexed by the petitioner is available with the record of the District Magistrate but the respondent no. 2 without considering the same has passed the order dated 31.01.2012 which is impugned in the writ petition.

6. Learned counsel for the State has filed a counter affidavit as well as supplementary counter affidavit stating therein that on the date of recommendation the petitioner was not working on 03.11.1983 in the Institution in question and the case of the petitioner was duly considered by the respondent-authority in light of the order passed by this Hon'ble Court in C.W.J.C. No. 9191 of 2001 and C.W.J.C. No. 2578 of 2009.



7. Learned counsel for the petitioner submits that after recommendation of the case of the petitioner by the then Director of the J.M.I.T., Darbhanga by which he has recommended the termination of the service of the petitioner with immediate effect but the same was not approved by the Managing Committee of Mithikla Vikas Sansthan. The Managing Committee did not approve the order passed by the Director terminating the service of the petitioner and the Managing Committee was found that on the relevant date the petitioner was found working in place of his posting and the said letter of Director was set aside by the Managing Committee and communicated to the Director vide letter no. 85(Go) dated 10.12.1983 (Annexure-12).

8. In view of the aforesaid, the petitioner is continuing working on the post in question and the same was taken over cognizance by this Hon'ble Court in C.W.J.C. No. 2578 of 2009 as well as in C.W.J.C. No. 9191 of 2001.

9. In the above view of the matter, the order as contained in Memo No. 294 dated 31.01.2012 (Annexure-1) is hereby set aside with a direction to the Principal Secretary, Department of Science and Technology, Government of Bihar (respondent no. 2) to take a decision afresh after hearing the petitioner in person and consider all the documents submitted by the petitioner including



the report of the District Magistrate, Darbhanga and the relevant documents which was received by the petitioner under the R.T.I. along with his representation and disposed of within a period of eight weeks from the date of receipt/production of a copy of this judgment/order.

10. The writ petition stands allowed.

(Rajesh Kumar Verma, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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Transmission Date	N.A.

