

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12397 of 2023

Md. Zubair Alam Son of Md. Ayub Resident of Road No. 3, New Nagmatiya Colony, Gaya, District- Gaya, Bihar- 823001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. The Principal Secretary, Rural Development Department, Government of Bihar, Patna.
5. The Principal Secretary, Labour Resources Department, Government of Bihar, Patna.
6. The Secretary, Rural Development Department, Government of Bihar, Patna.
7. The Secretary, Department of Finance, Government of Bihar, Patna.
8. The Labour Commissioner Bihar, Patna, Labour Resources Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ashutosh Singh, Adv.
For the Respondent/s : Mr.Md. N.H. Khan (SC-1)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 22-01-2024 1. The present writ petition has been filed seeking the following relief(s):-

“1.i) For quashing the order dated 03.01.2018 vide Memo No. 97 dated 03.01.2018 issued by the Under Secretary, Labour Resources Department, Government of Bihar, Patna, (as contained in Annexure- 12) whereby and where under instead of paying the salary of the petitioner for the periods while was kept waiting for posting, it has been decided to adjust such period by grant of



different kinds of admissible leave including the Earned Leave (EL) and Extra-ordinary leave.

(ii) For directing the respondent authority to take a decision by modification of Memo No. 97 dated 03.01.2018 issued by the Under Secretary, Labour Resources Department, Government of Bihar, Patna and order to grant earned leave and accordingly order to pay the amount for remaining 300 days EL (earned leave), Salary for 117 days of Extra Ordinary Leave and 92 days of waiting for posting i.e total $300+117+92=509$ days salary amount of the petitioner. In view of the decision taken with respect to similar situated employees of other departments.

(iii) For directing the respondent authority to take a decision to settle the matter of the petitioner in view of the Bihar State Litigation Policy, 2011.

(iv) For directing the respondent authority to take a decision to grant deputation allowance also.”

2. At the outset, the learned counsel for the petitioner submits that the case of the petitioner is akin to the case of the petitioners of one another writ petitioner bearing C.W.J.C. No.5068 of 2017, which was disposed off by a co-ordinate Bench of this Court by a judgment dated 07.08.2017 in the following terms:

“In my opinion in the peculiar situation existing where the petitioners are being denied



their salary for no fault of their own, the appropriate authority to take a decision on this issue would be the Chief Secretary, Government of Bihar as not only these petitioners are entitled to the salary for the period in question but their services during the period in question also needs a recognition and for the purpose I deem it proper to direct the Chief Secretary, Government of Bihar, Patna to consider the grievance of the petitioners and dispose of the same in accordance with law within a maximum period of three months from the date of receipt/production of a copy of this judgment.

It goes without saying that the period stipulated above would also be a guidance regarding the period for ensuring payment of the salary to the petitioners.

The writ petition is allowed with the directions aforementioned.”

3. The learned counsel for the petitioner submits that the petitioners of the aforesaid writ petition have already been paid salary for the period they were waiting for posting. In the present case, the respondents, vide order dated 03.01.2018, have taken a decision to adjust the period, during which the petitioner was waiting for posting, against the admissible leave including Earned Leave and Extraordinary



Leave, instead of making payment of the Leave Encashment amount, hence the Chief Secretary, Government of Bihar, Patna, be directed to consider the case of the petitioner in light of the decision taken in the case of the petitioners of the aforesaid writ petition bearing C.W.J.C. No.5068 of 2017. It is directed accordingly.

4. It is needless to state that in case the petitioner files appropriate representation before the Chief Secretary, Government of Bihar, Patna, within a period of two weeks from today, the same shall be decided forthwith, in accordance with law and a reasoned and a speaking order shall be passed, thereon, within a period of six weeks, thereafter.

5. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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