

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3600 of 2021

Dr. Jwala Prasad Son of Late Kailash Prasad Resident of Flat No. 293, Lohiya Nagar, P.O. and P.S. Kankarbagh, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary to Government, Department of Health, Medical Education and Family Welfare, Vikash Bhawan, Bailey Road, Patna.
2. The Principal Secretary to Government, Department of Health, Medical Education and Family Welfare, Vikash Bhawan, Bailey Road, Patna.
3. The Joint Secretary to Government, Department of Health, Medical Education and Family Welfare, Vikash Bhawan, Bailey Road, Patna.
4. The Director, Health Services, Department of Health, Medical Education and Family Welfare, Vikash Bhawan, Bailey Road, Patna.
5. The Accountant General, Birchand Patel Path, At, P.O. and District Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashank Shekhar Sinha, Advocate Mr. Braj Nandan Kumar Tiwary, Advocate
For the Respondent/s	:	Mr. Mujtabaul Haque, GP-12 Mr. Manish Kumar, AC to GP-12
For the Accountant General	:	Mr. Arun Kumar Arun, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 19-01-2024

Heard Mr. Braj Nandan Kumar Tiwary, learned counsel appearing on behalf of the petitioner, Mr. Manish Kumar, learned AC to GP-12 and Mr. Arun Kumar Arun, learned counsel for the Accountant General, Bihar.

2. The petitioner by invoking the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India has filed the present writ petition seeking quashing of the Order No. 572(2) dated 19.05.2016, as contained in



Annexure – 9 to the writ petition, passed by the Joint Secretary to the Government, Department of Health, Medical Education and Family Welfare, whereby, the claim of the petitioner for pensionary benefits has been denied.

3. It is submitted on behalf of the petitioner that the respondent authorities failed to consider the period of service spent on Army Medical Corps. during emergency created by Chinese aggression in the year 1964 and Pakistani conflict in 1965, as also the period spent in Ex-India Leave for higher study in Medicine Sciences in United Kingdom. Reliance has also been made on a instructions contained in Appointment Department's Circular No. 9653 dated 12th July, 1967 as also on the provisions made under Rule 217 of Bihar Service Code.

4. A supplementary counter affidavit has been filed on behalf of the respondent nos. 1 to 4. Learned counsel for the State referring to the averments made therein, submitted at the bar that during the pendency of the writ petition, the Additional Chief Secretary, Health Department, Government of Bihar has considered the claim of the petitioner afresh and passed a reasoned order vide Memo No. 536 dated 23.03.2023, keeping in view the issues raised in the instant writ petition and after obtaining the opinion of the General Administration



Department, Government of Bihar, the total service of the petitioner has now been calculated as 13 years and 6 months (i.e. from 01.12.1962 to 31.05.1976), which is a pensionable service. It is further submitted, by the aforesaid order, the period from 01.06.1976 to 31.07.1990, the period during which the petitioner went for higher studies in foreign countries has been regularized as no work no pay and will not be counted for pensionary benefits. Accordingly, the earlier order issued vide Memo No. 572(2) dated 19.05.2016, is amended to the above extent. He further submits that now the Deputy Secretary, Health Department, Government of Bihar vide Letter No. 755(2) dated 10.05.2023, has requested the petitioner to make available the necessary documents for sanction/approval of his pensionary benefits.

5. Considering the averments made in the supplementary counter affidavit, showing the redressal of substantive grievance of the petitioner, the present writ petition stands disposed of, however, it is made clear that if the petitioner is still not satisfied, remedy is always there to raise his grievance before the appropriate authority or the Court.

6. Needless to observe that after submission of all the necessary papers, consequential order for financial benefits must



be passed within a period of eight weeks, from the date of receipt/production of a copy of this order.

7. Accordingly, the writ petition stands disposed of.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.01.2024.
Transmission Date	NA

