

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13496 of 2023

Binod Kumar Jha S/o Sri Haribansh Jha Resident of Village-Kabilpur, P.S.
Kanti, Dist.-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Health Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Health Department, Govt. of Bihar, Patna.
3. The Director-in-Chief, Health Department, Govt. of Bihar, Patna.
4. The Regional Deputy Director of Health Services, Tirhut Division, Muzaffarpur, District-Muzaffarpur.
5. The Civil Surgeon, Sitamarhi, District-Sitamarhi
6. The Incharge Medical Officer, Community Health Centre, Parihar, District-Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Singh, Advocate
For the Respondent/s : Mr. Rajeshwar Singh (GA- 10)

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 27-06-2024 Heard the learned advocate on behalf of the petitioner
and learned advocate on behalf of the Respondents.

2. The petitioner had been appointed to Class-III post of Clerk by Civil Surgeon, East Champaran. He was transferred to East Champaran to Lalpur by Regional Deputy Director, Health Department. From Lalpur he was transferred to Primary Health Centre, Charoth. Thereafter, he was transferred to Papri in the district of Sitamarhi. While he was serving at Papri he was called upon to justify the legality of his appointment. The petitioner show caused. Thereafter, he was served with a notice



to show cause why he should not be removed from service. Holding inter-alia that his appointment was forged and fake. The petitioner on the same date of notice i.e. 24.03.2003 submitted his show cause, the Civil Surgeon after looking into the case of the petitioner terminated his service. It was held by the Civil Surgeon that the petitioner was holder of a fake appointment as the petitioner has never drawn his salary at Kesariya in the District of East Champaran. The validity of the order of termination traveled upto this Court and the Hon'ble Justice Mridula Mishra, as her leadership than was disposed of the writ petition filed by the petitioner alongwith similar other writ petitions by an order dated 06.10.2009. Against the said judgment, the State of Bihar preferred an Appeal before this Court. The said appeal titled as the State of Bihar and Ors. Vs. Sohan Raj and Ors. was disposed of by the Division Bench of this Court on 11.02.2010 accepting the contention of the learned Advocate General to decide the individual cases by a One Man Committee. Accordingly, the Hon'ble Justice Uday Singh, a retired Judge of this Court was appointed as the Chairman of the One Man Committee to consider the cases of the employees individually with a view to adjudicate the legality of their appointments and continuance in service, upon the certain terms



and conditions delineated in Para-8 of the aforesaid judgment, i.e. State of Bihar Vs. Sohan Rai, reported in 2010(2) PLJR 397.

3. The Hon'ble One Man Committee decided that the petitioner was not a holder of fake appointment and directed the Government Authority to recall the order of termination/dismissal and to reinstate him.

4. Suffice it to say that he was reinstated. Subsequently, on wrong appreciation of order passed in Civil Appeal No.7879 of 2019 (The State of Bihar & Ors. Vs. Devendra Sharma) and Civil Appeal No.8649 of 2018 (The State of Bihar & Ors. Vs. Kirti Narain Prasad) he was again terminated on a wrong notion that he was a party to the aforesaid appeals before the Hon'ble Supreme Court. However, subsequently the order of termination was recalled by a letter dated 26.10.2023 issued by the Director-in-Chief, Deceased Control, Public Health and Paramedical, Health Department, Bihar. Pursuant to the aforesaid letter, the petitioner was permitted to join by the Civil Surgeon, Sitamarhi vide letter dated 04.11.2023.

5. Now, the petitioner claims consequential benefits in terms of his reinstatement, viz. arrear salary from the date of his illegal termination on 05.08.2023 till 03.11.2023.



6. The learned advocate for the respondents submits that the matter was already moved by the Civil Surgeon, Sitamarhi and payment of salary during the period of illegal termination is under active consideration by the State Government.

7. In view of such circumstances, the writ petition filed by the petitioner is infructuous.

8. This Court does not think that the writ petition becomes infructuous. The factual score remains indisputable that the petitioner has not received the arrears salary from 05.08.2023 to 03.11.2023 till date. He is entitled to get the said arrears salary on his reinstatement on 04.11.2023. The petitioner made a prayer for payment of such salary to the Civil Surgeon after his joining, about eight months have lapsed but the State Government has not take a complete decision in this regard.

9. This Court is not in a position to digest that in order to take a decision as to whether the petitioner is entitled to get the arrears salary for even less than three months, the Government takes eight months.

10. In view of such circumstances, the respondent authorities, especially respondent Nos. 3, 4 & 5 are directed to take decision regarding payment of the arrear salary within one



month from the date of communication of this order.

11. The petitioner is at liberty to communicate the server copy of this order.

12. The instant writ petition is accordingly, allowed on contest, there shall be no order as to cost.

(Bibek Chaudhuri, J)

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