

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16018 of 2023

Md. Serajuddin Son of Late Md. Mushaheb Mian @b Md. Mosaheb @ Md. Rehaman, resident of Village-Bahuara Haribansh, P.S. Kalyanpur, P.O. Rajpur, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Secretary, Minor Irrigation Department, now Minor Water Resources Department, New Secretariat, Patna.
2. The Joint Secretary, Minor Irrigation Department, now Minor Water Resources Department, New Secretariat, Patna.
3. The Deputy Secretary, Minor Irrigation Department, now Minor Water Resources Department, New Secretariat, Patna.
4. The Chief Engineer-cum-Co-ordinator, Minor Irrigation Department, now Minor Water Resources Department, Tubewell Project Vishweswaraiyya Bhawan, Patna.
5. The Executive Engineer, Minor Irrigation Division, Motihari, East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajesh Mohan, Adv.

For the Respondent/s : Mr.Kapileshwar Prasad Yadav (GP-11)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 08-04-2024 1. The present writ petition has been filed seeking the following relief(s):-

“1. (i) A writ in the nature of a writ of certiorari to quash the order dated 05.10.2007 bearing letter no. 250 passed by the Deputy Secretary, Minor Irrigation Department, now Minor Water Resources Department, Patna by which the respondents authority dismissed the petitioner with effect from 01.09.1988 on the grounds that the petitioner was absent from duty since



01.09.1988 to 25.05.1995 more than 5 years under Clause 76 of the Bihar Service Code.

(ii) To declare that the order dated 25.03.1991 bearing letter No. 143 issued by the Administrative Officer, Chief Engineer Office, Muzaffarpur is sufficient to prove that the petitioner has discharged his duty in the office of the Chief Engineer with effect from 01.09.1988 to 26.03.1991 in the said period the said authority asked the Executive Engineer, Tubewell Division, Hazipur to pay the salary to the petitioner for the aforesaid period, because the petitioner was not absent from 01.09.1988 upto 26.03.1991.

(iii) To declare the letter no. 84 dated 04.02.1992 is sufficient good to prove this fact that the same is issued by the Executive Engineer, Tubewell Division, Hazipur who returned the service of the petitioner to Office of the Chief Engineer, Muzaffarpur on the ground that there is over strength of the employees of the Corporation, so he cannot adjust the service of the petitioner, but the petitioner discharged his duty in the Corporation since March 1991 till 04.02.1992. Thereafter the petitioner has given joining in the office of the Chief Engineer on 05.02.1992 and thereafter he fallen seriously ill. Then the petitioner proceeded on medical leave since 06.02.1992 to 25.09.1995. Thereafter the petitioner joined duty on 26.05.1995 in the office of the Chief Engineer, Muzaffarpur, which was



accepted by the Chief Engineer, Muzaffarpur.

(iv) To hold the order dated 26.07.1995 bearing letter No. 419 issued by the Chief Engineer, Muzaffarpur to the Co-Ordinator, Tubewell Project, Vishweshvaraiyya Bhawan, Patna given the details of the period in which the petitioner proceeded on medical leave and from which it appears that the petitioner was absent since 06.02.1992 to 25.05.1995 on account of serious illness i.e. Chest Tuberculosis. So this is quite enough to prove this fact that the petitioner was not absent continuously at all for 7 years, i.e. 01.09.1988 to 25.05.1995.

(v) To direct the respondents to pay the salary to the petitioner since 1995 till now including all consequential benefits in revised pay scale with all differences and giving all benefits of ACP and MCP, which accrued him during his tenure.

(vi) To direct the respondents to pay the post retirement benefits admissible to the petitioner in the revised pay scale with increment and all arrears accrued to him.”

2. At the outset, the learned counsel for the petitioner seeks liberty on behalf of the petitioner to avail such other remedies, as are otherwise available under the law for redressal of his grievances, including that of filing a Review Petition, for review of the order dated 21.07.2022, passed by a co-ordinate



Bench of this Court in C.W.J.C. No.16994 of 2008. Liberty so
sought is granted.

3. The writ petition stands disposed off as not pressed.

(Mohit Kumar Shah, J)

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