

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.16690 of 2009**

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Raj Kumar Lal S/O Sri Ramji Lal Deo R/O Vill Sonema, P.O. Nakmandal ,  
P.S.Baheri, Distt- Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director - In- Chief, Department of Health Services and Family Planning Government of Bihar, Patna
3. The Civil Surgeon-Cum- Chief Medical Officer Madhubani
4. The Incharge Medical Officer, Primary Health Centre Ghoghardiha, Madhubani

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Suraj Narain Yadav, Advocate  
For the Respondent/s : Mr. Pankaj Kumar, SC-12

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**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL ORDER**

8      17-11-2025                      1. Heard learned counsel for the petitioner and learned  
counsel for the respondents.

2. The petitioner has filed the instant application for a  
direction to the respondents to reinstate him in service with all  
consequential benefits.

3. The case of the petitioner in brief is that pursuant to  
a notice having been put up on the notice board in office of the  
Civil Surgeon-cum-Chief Medical Officer, Madhubani for  
appointment as Basic Health Worker, the petitioner filed his  
application and by order contained in memo no. 2495 of  
31.12.1990 (Annexure-1) issued under the signature of the Civil  
Surgeon cum Chief Medical Officer, Madhubani. The petitioner



was appointed as a Basic Health Worker on temporary basis.

4. It is the case of the petitioner that he continued to work in the said capacity till 1.7.2000 when the respondents stopped taking work from him without issuing any order and also stopped paying him salary.

5. It is submitted by learned counsel for the petitioner that the petitioner could not have been restrained from working. No proceeding was initiated against him and no formal order terminating his service has been passed.

6. It is the case of the respondents that no advertisement nor any notice was put up for appointment on the post of Basic Health Worker and the so called letter of appointment brought on record by the petitioner is a forged and fabricated document. It is submitted that on perusal of the relevant records in the office of the respondents, it transpires that the memo contained in the order of appointment of the petitioner was issued not by way of an appointment letter but was for supply of certain articles. Thus the selection letter is forged and fabricated. In any case of the matter there is an inordinate and unexplained delay in moving this Court for the relief prayed for. Further reliance is placed in support of the contention on the judgment dated 17.10.2019 of the Hon'ble



Supreme Court in the case of State of Bihar and others versus Devendra Sharma (Civil Appeal no. 7879 of 2019).

7. Heard learned counsel for the parties and perused the material on record.

8. The relevant facts in brief are that the petitioner claims to be appointment on the post of Basic Health Worker pursuant to an order contained in memo no. 2495 of 31.12.1990 (Annexure-1). So far as the in delay in moving against the order in the instant writ application is concerned, this Court proposes not to dismiss the instant writ application at the outset only for the reason that more than 16 years have passed since the filing of the instant writ application.

9. With respect to the other contentions of learned counsel for the respondents that the memo number as contained in the order of appointment is the same as that contained for supply of certain articles as evident from the copy of the dispatch register brought on record as Annexure-R/A to the counter affidavit, this Court observes that while the memo number may be the same, the dispatch register shows the said letter to have been issued on 13.11.1990 while the appointment letter which the petitioner brought on record as Annexure-1 to the writ writ application is dated 31.12.1990.



10. It has also not been disputed by the respondents that the petitioner continued to work in the capacity of Basic Health Worker for almost 10 years since 1.7.2000 and in the said capacity continued to receive salary for the same. The respondents have not brought on record any document showing that any criminal case etc. was registered against any person including the officials of the respondents for having illegally paid salary to the petitioner for more than 9 years on the basis of the forged appointment letter, as claimed by them.

11. So far as the judgment of the Hon'ble Supreme Court relied upon by the learned counsel respondents is concerned, reliance has been placed by the respondents on paragraph nos. 39, 40 and 41 thereof. The issues in these paragraphs relate to persons being sponsored by the employment exchange. In view of the above, the stand of the respondents would be contradictory in so far as on one hand the case of the respondents is that no advertisement nor any appointments were made on the post of Basic Health Worker and on the other by relying on these paragraphs, the respondents want to contend that the petitioner was not sponsored by employment exchange.

12. Having heard learned counsel for the parties and



having perused the contents of the petition, the Court is of the opinion that the respondents could not have acted against the petitioner without having instituted a proceeding/department proceeding or having at least given a show cause notice with respect to the action that they proposed to take.

13. In view of the facts and circumstances of the case, the respondents are directed to proceed against the petitioner, give an opportunity of hearing to the petitioner and having considered the materials provided for in reply, decide the case of the petitioner within a period of 3 months.

14. It is made clear that in considering the case of the petitioner, the respondents will not be effected by any observations made in this order nor will the same be taken as having finally decided any issue with respect to the petitioner.

15. The application stands disposed of.

**(Partha Sarthy, J)**

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