

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.530 of 2022

In
Civil Writ Jurisdiction Case No.21026 of 2018

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1. The State of Bihar.
 2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
 3. The Director in Chief, Health Services, Bihar, Patna.
 4. The Joint Director, Health Services, Bihar, Patna.
 5. The Additional Director, Health Services, Bihar, Patna.
 6. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
 7. The Regional Additional Director, Health, Tirhut Division, Muzaffarpur.
 8. The Deputy Secretary, Health Services, Bihar, Vikash Bhawan, New Secretariat, Patna.
 9. The District Magistrate, West Champaran, Bettiah.
 10. The Civil Surgeon cum Chief Medical Officer, Bettiah, West Champaran.

... .. Appellant/s

Versus

Dr. Arun Kumar Tiwary, son of Late Shivnath Tiwary, Dismissed-Medical Officer, Leprosy Control Unit, Bettiah, District-West Champaran, Resident of Village-Ujjain Tola, Bettiah, District-West Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. S.D. Yadav, AAG 9 Mr. Anil Kumar Verma, AC to AAG 9
For the Respondent/s	:	Mr. Amit Pandey, Advocate Mr. Manaur Alam, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA)

Date : 08-10-2025

Heard Mr. S.D. Yadav, learned counsel for the State (appellants) and Mr. Amit Pandey, learned counsel appearing on behalf of the sole respondent.

2. The present appeal is directed against the order dated 17.05.2022 passed in CWJC No. 21026 of 2018. By the



aforesaid order the learned Single Judge has been pleased to set aside the order passed by the Respondent No. 2 as contained in Memo No. 384(9) dated 09.04.2018 with cost of Rs. 25,000/- and further directed the appointing authority/disciplinary authority to examine whether the respondent, namely, Dr. Arun Kumar Tiwary is entitled to arrears of salary up to 25.08.2017, the date on which dismissal order dated 29.05.2015 was communicated and if he is not entitled to salary during the intervening period then speaking order shall be passed within two months.

3. Learned counsel for the appellants submits that the sole respondent was appointed on 29.07.1976 as a Medical Officer. On certain allegations the sole respondent was placed under suspension on 30.03.2001. Inquiry proceedings were initiated and the respondent was dismissed from service on 10.06.2015. The respondent has challenged the same and the same was allowed on 18.03.2011 and remanded the matter for initiation of fresh inquiry. The appellants were stated to have initiated inquiry by framing charges on 31.07.2002 but the copy of the charge memo, statement of imputation, list of documents and list of witnesses were not furnished to the respondent and the same was disputed fact whether it was served on the respondent



or not. He further submits that the respondent was dismissed w.e.f. 25.08.2017. The respondent has preferred an appeal before the appellate authority but the same was not decided by the authority concerned. Then the respondent has approached this Hon'ble Court in CWJC No. 1535 of 2018 which was disposed of on 09.02.2018 with the direction to the appellate authority to pass an order on the respondent's appeal but the same was not disposed of, then the respondent has filed the contempt petition and during the pendency of the same the appellate authority had passed an order on 09.04.2018 and the respondent has challenged the same in CWJC No. 21026 of 2018 and against that order dt. 17.05.2022 passed by the learned Single Judge, the present appeal has been filed by the appellants.

4. Learned counsel for the appellants submits that along with charge memo, statement of imputation, list of documents and list of witnesses were furnished to the respondent but he has not acted according to the Rule 17 of Rules, 2005 but the learned Single Judge has come to the conclusion that the charge memo, statement of imputation, list of documents and list of witnesses were not furnished to the respondent which is contrary to the records of the case. The learned writ Court on the basis of aforesaid has been pleased to allow the writ petition.



5. Learned counsel for the respondent submits that from perusal of the paragraph nos. 7 and 8 of the impugned order dated 17.05.2022 which is quoted herein below:-

“7. At this juncture, this Court posed a question to the learned counsel for the State in the presence of Mr. Brijesh Mehrotra, Additional Chief Secretary - cum - Incharge Principal Secretary of Health Department as to whether charge memo dated 31.07.2002 was communicated to the petitioner or not? From the records, the learned counsel for the State submitted that there were no material as to whether charge memo dated 31.07.2022 has been communicated to the petitioner or not? So also there is no noting relating to communication and there is recording of no response from the petitioner.

8. At this stage, learned counsel for the State as well as Mr. Brijesh Mehrotra, Additional Chief Secretary - cum – Incharge Principal Secretary of Health Department seeks time to ascertain further materials as to whether petitioner was provided show cause notice/charge memo dated 31.07.2002, petitioner was provided opportunity of cross examination, witnesses and copy of enquiry report was made available to the petitioner along with second show cause notice dated 22.01.2014 or not?”

6. It appears from the aforesaid paragraphs that the Additional Chief Secretary-cum-Incharge Principal Secretary of Health Department was present in the writ proceeding and the learned Single Judge has raised a query from the Additional Chief Secretary whether charge memo dated 31.07.2002 was



communicated to the petitioner or not? It appears from the aforesaid paragraphs of the impugned order that despite number of indulgence granted to the State authorities, they have not given any positive response, which suggest that there is non-compliance of the Rule 17 of Rules, 2005. Apart from the aforesaid, the second disciplinary proceeding was initiated against the respondent on the alleged allegation as is evident from the earlier order dated 18.03.2011 by which this Court has set aside order of dismissal dated 10.06.2005. Thereafter, in order to initiate and complete the inquiry proceedings, the appellants have taken more than a decade. Then the petitioner was compell to approach this Court on three occasions including contempt proceeding. Despite these facts, the appellants have not complied the Rules, 2005 and apart from that it appears from the paragraph no. 18 of the impugned order which is quoted herein below:-

“18. The appointing authority/disciplinary authority is hereby directed to examine whether petitioner is entitled to arrears of salary up to 25.08.2017, the date on which dismissal order dated 29.05.2015 was communicated. In this regard, necessary calculation shall be made and paid to the petitioner. If the petitioner is not entitled to salary during the intervening period, in this regard, necessary speaking order shall be passed with reference to relevant Rules so also Rule 21 of the Rules, 2005 relating to



communication of the orders be taken note of. Such a decision shall be taken within a period of two months.”

7. It appears from the aforesaid paragraph that the writ Court has directed the appellants to examine whether the petitioner is entitled to arrears of salary up to 25.08.2017, the date on which the dismissal order dated 29.05.2015 was communicated. But till date the appellants have not taken any steps to comply the aforesaid direction of the writ Court.

8. We have perused the records of the case and we have come to the conclusion that no case is made out for interference of this Court.

9. Accordingly, the present Letters Patent Appeals stands dismissed.

10. Pending application(s), if any, shall also stands disposed of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	NA
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