

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9035 of 2018

Chandradeep Mahto S/o Late Ganpati Mahto, Resident of Village- Ward No. 13, Madhepura, P.O. P.S. District- Madhepura.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Madhepura.
3. The Deputy Development Commissioner, Madhepura.
4. The Managing Director, District Rural Development Agency, Madhepura.
5. The Chief Executive Officer, District Rural Development Agency, Madhepura.
6. The Chairman, Zila Parishad, Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Adv.
For the Respondent/s	:	Mr. Prabhojot Singh, AAG4
		Ms. Rushali, AC to AAG4
For the DRDA	:	Mrs. Sunita Kumari, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 31-01-2025 Heard Learned Counsel for the petitioner, Learned Counsel for the State and Learned Counsel for the District Rural Development Agency (DRDA).

2. Learned Counsel for the petitioner submits that the present writ petition has been filed for quashing the order contained in Memo No.2122, dated 01.12.2016 passed by the Deputy Development Commissioner, Madhepura by which the appointment of the petitioner has been cancelled without prior approval of the Board and without giving opportunity of hearing to the petitioner. The further prayer has been made for quashing of the minutes of the meeting of Managing Board of District Rural Development Agency, Madhepura dated 24.02.2018



contained in Memo No.475(ka), dated 28.02.2018 relating to approval of cancellation of appointment of the petitioner.

3. Counsel for the petitioner submits that the father of the petitioner was employed in Class IV post in the Office of DRDA, Madhepura and he died in harness on 22.10.2007. His son (the present petitioner) had applied for compassionate appointment due to death of his father and after some query, the petitioner was communicated that his claim was rejected for compassionate appointment. Thereafter, the petitioner has moved before this Hon'ble Court in C.W.J.C. No.10370 of 2010 which was dismissed *vide* order dated 07.07.2010. Thereafter, the petitioner has preferred LPA *i.e.*, LPA No.1177 of 2010 dated 05.09.2012 by which it has been directed that the order passed by the Single Judge is set aside and matter is remitted back before the DRDA for consideration of the application of the petitioner as per the policy decision of the Government dated 01.04.1999.

4. Counsel further submits that after passing order in the LPA, the petitioner was appointment on compassionate ground, honorarium of Rs.8,000/- was fixed. He further submits that when payment of salary was not made to the petitioner then, he moved before this Hon'ble Court in C.W.J.C. No.9960 of 2014. He further submits that in the said writ petition, *vide* order



dated 29.01.2018, decision has been made which states as follows:-

“This writ petition under Article 226 of the Constitution of India has been filed by the petitioner for payment of arrears of salary as well as current salary since 01.04.2013 after adjusting amount of Rs. 35,000/- which has been paid to the petitioner.

The father of petitioner was employed on a Class IV post in the office of District Rural Development Authority, Madhepura and he died in harness on 22.10.2005. Petitioner was nominated by his mother for being considered for appointment on compassionate ground and he submitted required format, but his claim for compassionate appointment 25.07.2009. was rejected by order dated 25.07.2009.

Thereafter, petitioner filed a writ petition being C.W.J.C. No. 10370 of 2010 which was dismissed. However in LPA being LPA No. 1177 of 2010 there was direction to consider the case of petitioner for appointment on compassionate ground as per scheme and, pursuant thereto, petitioner was appointed on the post of Clerk- cum-Typist vide memo dated 30.03.2013 on contract basis on a consolidated pay of Rs. 8000/- per month and he joined on the said post on 01.04.2013 and was continuously working on the said post but he was not paid salary.

A counter affidavit has been filed on behalf of respondents in which it has been stated that arrears of salary as well as current salary due to petitioner since 01.04.2013 after adjusting the amount of Rs. 35000/- which was taken as an advance by the petitioner has been paid by the respondent authorities. During pendency of writ petition, the services of petitioner has been terminated by order dated 19.12.2016.

It has been submitted by counsel for the DRDA that petitioner has been paid salary for the period from



01.04.2013 to 19.12.2016 the date of his removal as Rs. 8000/- per month.

However a circular has been enclosed in this application wherein it has been stated that the honorarium of such employees has been enhanced from Rs. 8000/- to Rs. 15000/- per month which has been made effective from 01.08.2014, as such, petitioner is also entitled for enhanced honorarium of Rs. 15000/- per month for the period from 01.08.2014 till 19.12.2016 when he was removed from the service.

The DRDA is directed to pay the difference of honorarium for the period from 01.08.2014 till 19.12.2016 within three months from production/receipt of copy of this order.

During pendency of this writ petition petitioner has been removed by order dated 19.12.2016. Petitioner is granted liberty to challenge the order of his removal by a separate writ petition.

With such observation and liberty, this writ petition is disposed of.”

5. In the light of the liberty granted by this Court in C.W.J.C. No.9960 of 2014, the petitioner has challenged his removal by filing the present writ petition. In the present writ petition, the petitioner has taken liberty that a similarly situated person, namely, Jagdeo Ram was also working as Class IV employee of DRDA, who died in harness in the year 2005 and his son, namely, Dev Narayan Ram @ Devan Ram was appointed on compassionate ground in 2009 and he is still working as LDC under DRDA in pay-scale of Rs.3050 - 4590 as Lower Division Clerk under Collectorate, Madhepura.



6. Counsel further submits that on previous occasion, vide order dated 24.06.2024, this Hon'ble Court has pleased to direct the State as well as DRDA, Madhepura to file reply particularly, in response to paragraph 20 of the writ petition as to the repercussions in the light of the provisions laid down in Rule 4C of the Bihar State Litigation Policy, 2011. In response of that a supplementary affidavit has been filed in which this stand has been taken that the case of the petitioner is not as like that of son of late Jagdeo Narayan. The *prima facie* of the case of petitioner is not as like that of Dev Narayan Ram.

7. Learned Counsel for the State submits that the stand has come and it shall be appropriate for the DRDA to answer as the separate counsel for the DRDA is present.

8. Counsel for the DRDA fairly submits that ultimately, it is the State, who has to approve everything and since in the case of son of late Jagdeo Narayan, State accepts the employment and his pay scale. Therefore, he is being employed and payment is being made. For the case of petitioner, counsel for the DRDA submits that it is upon the State to accept or not to accept.

9. In the light of the submissions made by the parties, this Court is of the firm view that there is no denial either on behalf of State or on behalf of the DRDA that a similarly



situated person as like that of petitioner, who is working and in employment in pay-scale, but case of the petitioner has been rejected without any rhyme and reason. As such, it is directed to the DRDA to accept the employment of the petitioner in the pay-scale which were granted to Dev Narayan Ram, son of late Jagdeo Narayan.

10. It is made clear that in case, there is no such post of Class-III available, then in that case, joining of the petitioner will be accepted on the pay-scale in which he was working prior to removal *i.e.*, the fixed amount which he was receiving earlier . It is also directed that the period during which he has unnecessarily been removed, the payment shall also be made to the petitioner within 6 months from the date of production of this order. In this view of the matter, the order dated 01.12.2016 contained in Memo No.2122 and order dated 28.02.2018 contained in Memo No.475(ka) are hereby set aside.

11. With the aforesaid directions and observations, the present writ application stands allowed.

(Dr. Anshuman, J.)

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