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12/7/13

IN THE HIGH COURT OF JUDICATURE AT PATNA

(CIVIL WRIT JURISDICTION)

C.W.J.C. NO. Of 2013

Dr. Ragvendra Prasad Kam,

Petitioner

Versus

The State of Bihar, & ors

Respondents

Synopsis
Relief = That this petition is being filed for issuance of writ of appropriate nature, order or direction commanding respondents to pay salary to the petitioner for the month of May 09 to June 09, Sept. 09 to Oct. 09 Jan 10 to March, 10 , along with interest @ 18% and cost and compensation for the sufferance of petitioner in the absence of monthly salary.

Salary of these period was not paid to the petitioner in the absence of sending absentee report timely. The respondent Civil Surgeon Madhepura vide memo no. 868 dt. 11.7.12. The office has prepared bills for payment of salary of these months being amount of Rs. 421089/- to be deposited in the petitioner's account but in the absence of due endorsement of the Medical Officer In-charge, which is not being done purposely and malafidely, the due salary has not been credited to the account of petitioner.

Important list of dates

17.3.79	Petitioner came in services of Bihar Health Services
May 2009	Petitioner's monthly salary was not paid to him
June 2009	Petitioner's monthly salary was not paid to him

October 2009 Petitioner's monthly salary was not paid to him

December 2009 Petitioner's monthly salary was not paid to him

January 2010 Petitioner's monthly salary was not paid to him

March 2010 Petitioner's monthly salary was not paid to him

11.7.12 Civil Surgeon Madhepura ordered for payment of salary

Bills were prepared but could not be credited in the account.

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Civil Writ Jurisdiction)
CWJC /2013

Dr. Raghvendra Prasad Kam

Petitioner

Versus

The State of Bihar & ors.

Respondents

Subject matter – Salary matter Health Services Gazetted post

1. Writ petition under Article 226 of the Constitution of India. _____
2. Annexure 1 copy of memo no. 868 dt. 11.7.12 _____
3. Annexure 2 copy of bill _____
4. Annexure 3 copy of letter 68 dt. 3.2.11 _____
5. Vakalatnama

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IN THE HIGH COURT OF JUDICATURE AT PATNA
(CIVIL WRIT JURISDICTION)

C.W.J.C. NO. Of 2013

In the matter of a petition
under Article 226 of the
Constitution of India

And

In the matter of

Dr. Ragvendra Prasad Karn, S/o Late Raj Narayan Lal,
Permanent resident of Village Shivdha P.S. Gayghat
District Muzaffarpur.

Petitioner

Versus

1. The State of Bihar, through the Principal Secretary,
Department of Health and Family Welfare, Patna.
2. The Collector Madhepura.
3. The Civil Surgeon Madhepura.
4. The Medical Officer In-charge, Primary Health Centre Alam Nagar,
District Madhepura.
5. The Treasury Officer Madhepura.

Respondents

To

The Hon'ble Ms. Justice R. M. Doshit, Chief Justice of the High Court of Judicature at Patna and her companion Justices of the said Hon'ble Court.,

The humble petition on behalf
of petitioner above named;

MOST RESPECTFULLY SHEWETH :-

1. That this petition of the petitioner above named is being filed for issuance of writ of mandamus or writ of appropriate nature, order or direction commanding respondents to pay monthly salary of the petitioner for the months of May 09 to June 09, Sept. 09 to Oct. 09 Jan 10 to March, & Sept. 12, which is being illegally withheld even after sanction and order of payment on 11.7.12 in illegal and unjustified way. The petitioner also prays for an order for directing respondent to pay this amount along with interest @ 18% and cost and compensation as quantified by the Hon'ble Court for the sufferance and harassment caused to him.
2. That the main issue involved in the writ petition enter alia are as follows:-
 - i) whether non payment of monthly salary to the petitioner in the absence of properly forwarding absentees and upon protest and sanction of payment of salary withholding the sanctioned amount for about a year do not speak of malafides and ulterior motive of authorities responsible for it?
 - ii) Whether the respondent senior authorities are not obliged in law to take proper action against those authorities not acting in accordance with law and harassing innocent and disciplined employees?

- iii) Whether petitioner would not be entitled to get his illegally withheld money along with interest @ 18%
 - iv) Whether withholding of salary of an employee for none of his fault is not a an offence and a thing to be looked upon seriously to avoid its repetition with any one in future?
 - v) Where petitioner is not being subjected to hostile discriminations and malafidides in the hands of respondents?
3. That the petitioner is a citizen of India.
 4. That the petitioner s a Medical Doctor. He is possessing M.S. Degree in Surgery. The petitioner is a good surgeon and successfully performs even complicated and serious surgery.
 5. That the petitioner after getting appointed to the post of Medial Officer in Bihar Health Services and having joined on 17-3-79, is in its regular and continuous service till day. He has served at Sadar Hospital, Motihari for the period 17-3-79 to 20-6-91 and at Referral Hospital Tribenigang from 19-1- to 4-12-2000, and has performed his duty as specialist surgeon.
 6. That since 2000 the petitioner is posted as Medical Officer at Alam Nagar Primary Health Centre in the district of Madhepura. At this place, petitioner is posted as medical officer at the P.H.C, whereas persons below to his seniority have been given duty and post of Medical Officer In-charge of the Centre.
 7. That the petitioner, who keeps himself concerned with performing govt. duty and service to ailing patients, has at time raised voice due to humiliating service conditions and at times he becomes harassed due to the apathetic

attitude of the respondent department also, but voices and protests has remained of no consequences. .

8. That the present issue of non payment of salary of the petitioner, which is the subject matter of this petition is one of the glaring examples of such harassments, where even though the petitioner had worked throughout the period, his absentee and performing duty report were not forwarded to the district head office as a result of which he could not get salary on regular basis for several months.
9. That the petitioner was not paid salary for the month of May, 2009, June 2009, October 2009, December 2009, January 2010, February 2010 and March 2010 illegally on account of not sending of salary to the office of Civil Surgeon Madhepura
10. That the petitioner had worked through out this period and had produced documents of his presence for these period upon which the Civil Surgeon, Madhepura through memo no. 868 dated 11-7-12 sanctioned for payment of monthly salary to the petitioner for the month of May 2009, June 2009, September 2009, October 2009, January, 2010 February 2010 and March 2010

Copy of memo 868 dtd 11-7.12 is annexed herewith and marked as Annexure-1.

11. That after sanctioned of his salary to the petitioner July 2012 the petitioner look forward for passing bill by the Drawing Disbursing officer who happens to

be Medical Officer In-charge, Alam Nagar and disbursing the amount in the account of petitioner through which he gets salary.

12. That till date even after lapse of 11 months of the sanctioning order the due salary of the petitioner has not been paid to him.
13. That the petitioner has contacted the Medical Officer In-charge as well as Civil Surgeon, Madhepura but due salary has not been paid to him as yet.
14. That the petitioner has contacted the office, who has informed that bill has been prepared but in the absence of due forwarding and endorsement of the Respondent medical officer in-charge, it has not been disbursed to him.

Copy of bill is annexed
herewith and marked as
Annexure 2 hereof.

15. That petitioner is thus being deprived of his monthly salary for no fault of his own. It is only to apathetic attitude in the nature of causing harassment to the petitioner for which he is at sufferance.
16. That it is relevant to point out that the medical officer In-charge forwarded absentee for the month of June 10 through letter no. 68 dated 03.02.11, and even after that salary for this month has not been paid to him as yet. This clearly indicates the official actions of the respondents for which petitioner is not accountable at all.

Copy of letter 68 dt. 3.2.11 is
annexed herewith and

marked as Annexure 3
hereof.

17. That petitioner has approached senior officials but he is not being heard.
18. That petitioner had worked through out the period for which the salary has not been paid to him. During these period he has performed hundreds of operation.
19. That petitioner is not responsible in any way for non payment of salary. The respondent authorities themselves are responsible for with-holding salary of the petitioner. Therefore petitioner would be entitled for payment of interest @ 18% apart from cost and compensation as quantified by the Hon'ble Court.
20. That the petitioner has no other suitable, efficacious and speedy remedy than to move this Hon'ble Court in writ jurisdiction.
21. That the petitioner has not moved this Hon'ble Court earlier for the relief sought for in this petition.

It is therefore prayed that your Lordships may graciously be pleased to issue notice to the respondents calling upon them to show cause as to why the relief sought for in this writ petition be not granted and after affording reasonable opportunity of hearing to the parties be pleased to allow this writ petition and grant the relief sought for in paragraph-1 hereinabove.

And/or

Pass such other order or orders, as
your Lordships may deem fit and proper
in the facts and circumstances of the
case and in the interest of justice.

And for this the petitioner shall ever pray.

AFFIDAVIT

I, Dr. Ragvendra Prasad Karn, aged about 60 years, S/o Late Raj Narayan Lal, Permanent resident of Village Shivdha P.S. Gayghat District Muzaffarpur do hereby solemnly affirm and state as follows:-

1. That I am petitioner of this case and am well acquainted with the facts and circumstances of the case.
2. That I have gone through the contents of this writ petition and have understood its contents properly.
3. That the statements made in para 1, 2, 3, 4, 5, 7, 8, 9, 15 of the writ petition are true to my knowledge and the statement made in para 10, 14, 16 — of the statements are true to my information derived through the sources mentioned therein and the rest of the statements have been made by way of submission before the Hon'ble Court.
4. That the annexure are true/ photo/ typed copies of their respective originals.

(Annexure - 1)

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कार्यालय असेनिक शल्य चिकित्सक -सह- मुख्य चिकित्सा पदाधिकारी, मधेपुरा

आदेश

प्रभारी चिकित्सा पदाधिकारी, प्रा०स्वा०केन्द्र, आलमनगर के पत्रांक 490 दिनांक 08.07.2012 के प्रतिवेदन के आधार पर डा० आर०पी०कर्ण, चिकित्सा पदाधिकारी, प्रा०स्वा०केन्द्र, आलमनगर के बकाया वेतन मई 2009, जून 2009, सितम्बर 2009, अक्टूबर 2009, जनवरी 2010, फरवरी 2010 एवं मार्च 2010 के अवरुद्ध वेतनादि के भुगतान की स्वीकृति दी जाती है।

G.A.
16/7/12
Principal Medical Officer
Almora (Madhupur)

20-
असेनिक शल्य चिकित्सक -सह-
मुख्य चिकित्सा पदाधिकारी, मधेपुरा।

ज्ञापांक- 868 / मधेपुरा, दिनांक- 11/7/12

प्रतिलिपि : डा० आर०पी०कर्ण, चिकित्सा पदाधिकारी / प्रभारी चिकित्सा पदाधिकारी, प्रा०स्वा०केन्द्र, आलमनगर को सूचनार्थ एवं अनुपालानार्थ प्रेषित।

प्रतिलिपि : कोषागार पदाधिकारी, मधेपुरा को सूचनार्थ एवं आवश्यक कार्याार्थ प्रेषित।

असेनिक शल्य चिकित्सक -सह-
मुख्य चिकित्सा पदाधिकारी, मधेपुरा।
11/7/12

113
16.7.12



OFFICE OF THE ACCOUNTANT GENERAL (A&E) BIHAR

Amesur - 2

10

Dr. Raghendra Prasad Karan
 Medical Officer
 P.H.C. Alam Nagar, Madhepura.
 PAY SLIP NO: 11031110024586
 PERMANENT

OFFICER COPY Payslip for Gazetted Officer
 The Officer mentioned here is hereby authorized to draw pay/leave salary at the month rates shown below from the dates specified but less already drawn for the period.
 The Scale of Pay is
 PB-04 37,400-87,000
 Date of next increment is 01-July
 This payslip contains 1 page(s) and 6 column(s)

Important : (1) This payslip is computer generated and is not valid if any correction is made to it. (2) This payslip is valid only on the Treasury to which it is authorized (3) Treasury Officer before making payment must verify the signature of the authorized signatory. (4) Salary according to this payslip can be drawn only by the Concern Drawing and Disbursing Officer. (5) If the payslip is marked "Permanent", the officer is authorized to draw her/his salary according to this payslip as long as she/he holds the present post and draws her/his salary through the concerned DDO and Treasury Officer. (6) Further increments in the pay scale mentioned above can be paid to the officer from the "Date of next increment". (7) For other important information, please refer to the obverse of this page.

	1	2	3	4	5	6			
From	1/7/08	25/11/08	1/1/09	1/7/09	1/1/10	1/7/10			
Basic Pay	27,390	37,400	37,400	38,790	38,790	40,220			
GP	7,800	9,700	9,700	9,700	9,700	8,700			
DA	5,598	7,378	10,142	12,822	16,822	22,014			
MED ALL		100	100	100	200	200			
HRA		1,103	2,305	2,375	2,375	2,446			
DA TO GPF									
CCA									
----- End Of Row -----									
TOTAL	40,588	54,679	58,647	62,787	66,687	73,580			

- 1. Rupees Forty Thousand Five Hundred Eighty Eight Only
- 2. Rupees Fifty Four Thousand Six Hundred Seventy Nine Only
- 3. Rupees Fifty Eight Thousand Six Hundred Forty Seven Only
- 4. Rupees Sixty Two Thousand Seven Hundred Eighty Seven Only
- 5. Rupees Sixty Six Thousand Six Hundred Eighty Seven Only
- 6. Rupees Seventy Three Thousand Five Hundred Eighty Only

Amesur
 D.P.K. in
 Medical Officer (Medical)
 Primary Health Centre
 Alamnagar (Madhepura)

This pay slip is issued to
 1. The Treasury Officer, Madhepura
 2. The following Drawing and Disbursing Officer

Comment : **NIL**

[Signature]
 Authorized Signat

BTC FORM - 19

[See Rule 161]

Periodical Increment Certificate

(1) Certified that the government servants named below have earned the prescribed periodical increments: from the dates cited in column 6, having been the incumbents of the post specified for not less than _____ year from the date in column 5, after deducting periods of suspension for misconduct, etc., and absence on leave without pay, and in the case of those holding the posts in officiating capacity, all other kinds of leave.

(2) Certified that government servants named below have earned periodical increments from the dates cited for reasons stated in the explanatory memo attached hereto.

Name of incumbent	Whether substantive or officiating.	Scale of Pay of pos.	Present pay.	Date from which present pay is drawn.	Date of present increment.	Future Pay.	Suspended for misconduct, or such other absence which does not count for increment.		Leave without pay and in the case of those holding the posts in officiating capacity, all other kinds of leave.	
							From	To	From	To
Dr. P.K. Jha (3.2.85) 3.2.85	Substantive	27100-62000	47100 34950	9/1/80	9/1/80	7 42450	8	9	10	11

Note: The figure (1) or (2) should be placed against each name according as the reason (1) or (2) applies. The explanatory memo should be submitted in any case in which reason (2) applies.

Date: _____ 20_____

Dr. P.K. Jha
Medical Officer (Classified)
Signature and Designation of Drawing Officer
(Name)

जमा स्लीप / Pay in Slip



भारतीय स्टेट बैंक State Bank of India

नकद/अंतरण / CASH/TRANSFER

शाखा/BRANCH

दिनांक / Date 20

टिप्पणी: कृपया नकद/चेक/ड्राफ्ट आदि जमा करने के लिए अलग-अलग पर्चियों का उपयोग करें।/NOTE Please use separate slips for depositing cash, cheques, drafts etc

खाते का प्रकार : बचत बैंक/चालू खाता/आवर्ती जमा/कैश क्रेडिट/सावधि ऋण /Type of Account : SB/CA/RD/CC/TL

खाता सं० / ACCOUNT No 11424915675

के बैंक खाते में जमा करने हेतु / For the credit of the Bank Account of
श्री. राजेश कुमार

नोट: कृपया नकद/चेक के विवरण दूसरी ओर लिखें।
Not Please furnish details of Cash/Cheque Overleaf

नकद/चेकों के विवरण पर्ची के दूसरी ओर Details of Cash/Cheques Overleaf

खाते में नकद जमा / Cash Deposit in the Account 421089.00

श्री 'कण्ड' के शाहको को छोड़कर नकद स्वीकार्य शर्तक (कैश हैंडलिंग चार्ज/CC/CA/Other than 'P' segment/Customers) 421089.00

कुल जमा / Total Deposit

रुपये (शब्दों में) / Rupees (in words) चार लाख पचास हजार मात्र मात्र

मोबाइल/टेलीफोन नं० / Mobile/Tel No. 9470002429 पैन नं०/PAN No.

शाखा/BRANCH कोड नम्बर / CODE NO.

आवृत्ति / Frequency

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Amesme - 3

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अनुपस्थिति विवरणी

कार्यालय प्रभासी चिकित्सा पदाधिकारी, आलमनगर

माह - जून - 2010.

क्र०	पदाधिकारी / कर्मचारी का नाम एवं पदनाम	उपस्थिति	अनुपस्थिति	अभ्युक्ति
01	डॉ० आर०पी० एम० वि० पदा०	01.06.10 से 30.06.10	शून्य	पूर्ण माह

प्रभासी चिकित्सा पदाधिकारी
प्रा० रवा० केन्द्र, आलमनगर

पत्राक- 68 आलमनगर, दिनांक- 03.02.11

प्रतिलिपि - असीनिक शल्य चिकित्सक सह मुख्य चिकित्सा पदाधिकारी मधेपुरा को
सुमनार्थ प्रेषित।

प्रभासी चिकित्सा पदाधिकारी
प्रा० रवा० केन्द्र, आलमनगर

03.2.11

14

जमा की गई पक्की एवं चेकों की विवरण / Details of CASH/CHEQUES deposited

चेक / Details of CHEQUES					पक्की के विवरण / Details of CASH		
बैंक का नाम या खाता नं. Drawn on Bank	बिना Branch	चेक नं. Cheque No.	राशि Amount ₹	कुल Denom- ination	पक्की की सं. No. of Pieces	राशि Amount ₹	₹ P
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