

Sc-18
27/9/12

IN THE HIGH COURT OF JUDICATURE AT PATNA.

(MISCELLANEOUS JUDICIAL JURISDICTION CASE)

M.J.C.NO. _____ / OF 2012.

(Arising out of C.W.J.C. No. 2287 of 2012)

Dr. Mithileshwar Prasad Singh.....PETITIONER

VERSUS

The State of Bihar and others..... OPPOSITE-PARTIES.

SUBJECT:- Contempt.

SL. NO.		DESCRIPTION OF DOCUMENT	PAGE NOS.
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02.	ANNEXURE-1	A true photo stat copy of the order dated 02.04.2012 passed in C.W.J.C. No. 2287 of 2012	7-10
03.	ANNEXURE- 2 & 2/1	True photo stat copies of the representations dated 30.04.2012	11-15
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IN THE HIGH COURT OF JUDICATURE AT PATNA.

(MISCELLANEOUS JUDICIAL JURISDICTION CASE)

M.J.C.NO. _____ / OF 2012 (CONTEMPT)

(Arising out of C.W.J.C. NO. 2287 of 2012)

In the matter of an application Under
Article 215 of the Constitution of India read
with Section 12 of the Contempt of
Court's Act;

A N D

In the matter of :-

Dr. Mithileshwar Prasad Singh , son of Late Sudist Narayan Singh ,
Resident of B/5 , Friends House Apartment , Montessary Lane , Boring
Road , P.S. Sri Krishnapuri ,District – Patna.

.....**PETITIONER.**

VERSUS.

1. The State of Bihar.

2. Sri Vyas Ji Mishra ,son of not known to the petitioner ,

Presently posted as the Principal Secretary , Health & Family Welfare
Department, Government of Bihar, Patna .

3. Dr. Parsuram Prasad ,son of not known to the petitioner ,
Presently posted as the Civil Surgeon- cum- Chief Medical Officer,
Madhepura.

.....**Contemnors-OPPOSITE PARTIES**

To,

The Hon'ble Ms. Justice Rekha M. Doshit , the Hon'ble
Chief Justice of the High Court of Judicature at Patna and Her
Lordships Companion Justices of the said Hon'ble High Court.

The humble petition on behalf of the
petitioner above named;

MOST RESPECTFULLY SHEWETH:-

1. That, this is an application on behalf of the petitioner above
named is for initiation of a contempt proceedings against the contemnors -
Opposite -parties ,who have deliberately and willfully did not comply
the order dated 02.04.2012 passed by His Lordship Hon'ble Mr. Justice
Kishore Kumar Mandal in C.W.J.C. No.2287 of 2012 within the stipulated
period .

A true photo stat copy of the order
dated 02.04.2012 passed in C.W.J.C.
No. 2287 of 2012 is annexed hereto
and marked as ANNEXURE- "1" to

this application.

2. That, the petitioner had filed the instant writ application for payment of retiral dues and its consequential benefits.

3. That, after hearing the parties , a bench of this Hon'ble Court disposed of the writ application with a direction to the petitioner to file representation supported by all relevant documents within five weeks and thereafter contemnor –Opposite-parties examined the claim of the petitioner and to take appropriate decision in accordance with law as quick as possible preferably within a period of two months from the date of filing /presentation. The Contemnors- Opposite-parties were also directed to take all effective steps to ensure authorization of the admissible dues within further period of five weeks based on the decision taken by them on the representation of the petitioner .

4. That, the petitioner after getting the certified copy of the order dated 02.04.2012 passed in C.W.J.C. No.2287 of 2012 represented before the contemnor-Opposite-party nos.2 and 3 on 30.04.2012.

True photo stat copies of the representations dated 30.04.2012 are annexed herewith and marked as ANNEXURE- “2” & “2/1” to this application.

5. That, the petitioner visited several times for getting his retiral dues before the contemnors-Opposite-parties but only assurance was given by him but till today not a single pany has been paid to the petitioner , it amounts to deliberate intention to harass the petitioner as well as deliberate disobedience to comply the order of this Hon'ble Court.

6. That, the aforesaid action of the contemnors- Opposite-parties is willful and deliberate and thus there appears to be no respect of this Hon'ble Court before the contemnors –Opposite-parties for which they are liable to be prosecuted and appropriately sentenced under the Contempt of Court's Act .

7. That, the petitioner has not filed any application like the present one earlier before this Hon'ble High Court .

It is ,therefore, most humbly prayed that your Lordships may graciously be pleased to issue notice to the contemnors-opposite parties ,calling upon the show-cause as to why contempt proceeding should not be initiated for violation of the court's order (ANNEXURE-1) and if no sufficient cause is shown Your Lordships may further be pleased to prosecute the contemnors – opposite parties under the contempt of court's

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Act and they may be sentenced appropriately.

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 for this the petitioner shall ever pray.

A F F I D A V I T.

I , Dr. Mithileshwar Prasad Singh , aged about-58 years, son of Late Sudist Narayan Singh ,resident of B/5 , Friends House Apartment , Montessary Lane , Boring Road , P.S. Sri Krishnapuri ,District – Patna, do hereby solemnly affirm and state as follows :-

1. That, I am petitioner in this case and as such am well acquainted with the facts and circumstances of the case.
2. That, the contents of this application and affidavit have been read by me which I have fully understood and the same are true to the best of my knowledge and belief.
3. That, the annexures are true photo stat copies of their respective original.

Mithileshwar Prasad Singh

2 Recd 09/11/12
Bihar 7

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2287 of 2012

1. Dr. Mithileshwar Prasad Singh S/O Late Sudist Narayan Singh R/O B/5,
Friends House Apartment, Montessary Lane, Boring Road, P.S.- Sri
Krishnapuri, District- Patna.

..... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary Health and Family Welfare Department,
Government of Bihar, Patna
3. The Director-in-Chief Health Services, Bihar, Patna
4. The Additional Secretary Health Department, Government of Bihar,
Patna
5. The Deputy Secretary, Health Department, Government Of Bihar, Patna
6. The Special Executive Officer Health Department, Government of Bihar,
Patna
7. The Civil Surgeon-Cum-Chief Medical Officer, Madhepura
8. The Accountant General, Bihar, Patna .

..... Respondent/s

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

3 02-04-2012 : Heard Mr. Ajit Kumar Singh, learned counsel for the
petitioner, learned AC to SC 18 for the State and Mr. Rabindra
Kumar, learned counsel for the Accountant General are present.

This matter was taken up on 03.02.2012, when
noticing the grievance of the petitioner and the submission of
counsel for the respondents, the same was adjourned by 08 weeks
enabling the respondents to file counter affidavit. No counter
affidavit has been filed on behalf of the respondents. This Court in
the order dated 3.2.2012, noticed as under:-

“ Petitioner while serving the
Government in Bihar Health Service sought

19 1
Bihar
09/11/12

voluntary retirement. He was allowed to superannuate by order dated 23.05.2008. It is his grievance that except provisional pension the authorities have not paid the entire post-retiral dues including the final pension. Learned counsel points out that a proceeding was initiated against him while in service which ultimately culminated in dropping of the said proceeding vide order dated 01.08.2006 (Annexure-1). This Court is unable to appreciate the action/inaction on the part of the respondents in not paying the post-retiral dues in the fact situation hereinabove. Learned counsel further points out that there was no criminal proceeding pending against the petitioner when he superannuated from service.

Petitioner was serving the government as Medical Officer. He was proceeded against departmentally vide an order dated 01.07.2005. The petitioner was, however, exonerated from the charges and thereafter posted at the Sadar Hospital, Madhepura. He sought voluntary retirement from service which was allowed by order dated 23.5.08 (Annexure-2). Thereafter he made diverse representations for payment of the post-retiral dues but the same were not settled in his favour leading to filing of the writ petition. The petitioner states that only provisional pension was sanctioned and he is in receipt thereof.

Learned counsel for the petitioner, referring to Annexure-1 submits that while dropping the departmental proceeding by order dated 01.08.06 (Annexure-1) it has been held that the period during which he remained under suspension would

be treated as duty period. It is his contention that in the light of the said order the respondents were required to treat him all along in service and pay the post retiral dues which have not till date been paid.

Mr. Rabindra Kumar, learned counsel for the Accountant General submits that as soon as the required sanctioned orders are received from the competent authority of the State respondent the Accountant General shall issue the authority slip without loss of time.

Learned counsel for the petitioner submits that he would file a representation detailing the grievance(s) before the appropriate authority of the State respondent who may be directed to examine the same and redress his grievance(s) according to law within a time frame.

In the circumstances, this Court is satisfied that present application be disposed of by the following order:-

Let the petitioner file a representation setting out his grievance(s) supported by all relevant documents in his possession together with a copy of the present order before the Principal Secretary, Department of Health and Family Welfare (respondent no.2) as well as the Civil Surgeon- cum- Chief Medical Officer, Madhepura (respondent no.7) within a period of

05 weeks whereafter those two respondents, acting in tandem, shall examine the claim(s) of the petitioner and take appropriate decision thereon in accordance with law as quickly as possible preferably within a period of 02 months from the date of filing/presentation. The respondents will thereafter take all effective steps/measure to ensure authorization of the admissible dues within a further period of 05 weeks based on the decision to be taken by them on the representation of the petitioner.

sd/
 (Kishore Kumar Mandal, J)

Shyam/-

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[Signature]
 For **John R. Gistler (J)** 11/4/12
 Patna High Court

[Signature]
 11/4/2012
 22/9/19/38

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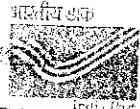
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CHITTOOR

Counter No.1, CP-Code:01

To: CIVIL ENGINEER, C.M.S., 400,
MADRASA, PIN-520011



From: P.P. BIRNEN, SPRING ROAD, PATNA-1

400119, Patna,

30/04/2012, 13:00

Rate: Rs. 3.00 (Visit www.indiapost.gov.in)

सेवा में,
प्रधान सचिव,
स्वास्थ्य विभाग, पटना

सिविल सर्जन, मधेपुरा

विषय:-CWJC No.- 2287/2012 एवं 3371/2012 डा0 मिथिलेश्वर प्र0

सिंह बनाम राज्य

सरकार एवं अन्य।

महाशय,

उपर्युक्त विषय के संदर्भ में विनम्रतापूर्वक कहना है कि मैं बिहार सरकार द्वारा चिकित्सा पदाधिकारी के पद पर नियुक्ति के उपरान्त दिनांक 15.07.1981 को योगदान कर लगातार कार्यरत रहा। कालान्तर में कतिपय व्यक्तिगत कारण वश स्वास्थ्य विभागीय अधिसूचना संख्या 790 (2) दिनांक 23.05.2008 (प्रतिलिपि संलग्न) द्वारा मुझे ऐच्छिक सेवा निवृत्ति की स्वीकृति प्रदान की गयी।

2. अपने उपर वर्णित सेवाकाल में पदस्थापना से संबंधित सेवा- इतिहास की प्रतिलिपि संलग्न करते हुए कहना है कि मेरे निम्नांकित संस्थानों के पदस्थापन अवधि में कार्यावधि के वतेनादि का भुगतान अनावश्यक रूप से अवतक नहीं किया गया है।:-

संस्थान का नाम

(क) APHC, विधापतिनगर (समस्तीपुर)

मार्च, 2001

अवधि

अगस्त, 2000 से

एवं

मार्च, 2002 से जून, 2002

(ख) प्रा० स्वा० केन्द्र, चौसा (मधेपुरा)

जुलाई, 2002 से

नवम्बर, 2004

(ग) निलंबन अवधि

नवम्बर, 2004 से अगस्त,

2006

(इस अवधि में जीवन

निर्वाह भता

का भी भुगतान नहीं हुआ

है)

(घ) सदर अस्पताल, मधेपुरा

अगस्त, 2006 से

23.05.2008

(VRS की तिथि तक)

3. अपने उपर्युक्त कथनों/दावों से समर्थित निम्नांकित साक्ष्यों की प्रतिलिपियाँ सुलभ संदर्भ हेतु संलग्न कर रहा हूँ।

(क) APHC, विधापति नगर (समस्तीपुर) के अगस्त, 2000 से मार्च, 2001 तथा मार्च, 2002 से जून, 2002 तक के कार्यावधि का वतेनादि भुगतान नहीं किये जाने संबंधी सिविल सर्जन, समस्तीपुर का पत्रांक- 602 दिनांक 03.03.2011.

(ख) PHC, चौसा (मधेपुरा) का जुलाई, 2002 से नवम्बर, 2004 तक के कार्यावधि का बेतनदि भुगतान नहीं किये जाने संबंधी प्रभारी चिकित्सा पदाधिकारी, प्रा० स्वा० केन्द्र, चौसा (मधेपुरा) का पत्रांक 360 दिनांक 22.07.2010.

(ग) नवम्बर, 2004 से अगस्त, 2006 तक के निलंबनावधि को कर्तव्य अवधि माने जाने संबंधी स्वास्थ्य विभागीय अधिसूचना संख्या 861(9) दिनांक 01.08.2006.

(ध) अगस्त, 2006 से ऐच्छिक सेवा निवृत्ति की तिथि 23.05.2008 तक की स्थिति यह है कि निलंबन मुक्ति संबंधी विभागीय अधिसूचना संख्या 861 (9) दिनांक 01.08.2006 की प्रतिलिपि मुझे प्रा० स्वा० केन्द्र चौसा (मधेपुरा) में डाक द्वारा दिनांक 07.08.2006 को प्राप्त हुआ तथा उसी दिन मैं सिविल सर्जन, मधेपुरा के कार्यालय में योगदानार्थ प्रस्थान किया (साक्ष्य संलग्न)। दि 08.08.2006 को मैं सिविल सर्जन कार्यालय, मधेपुरा के समक्ष योगदान दिया (साक्ष्य संलग्न) एवं पदास्थापन की प्रतीक्ष में रहा। CS मधेपुरा के आदेश ज्ञापांक 1134 दिनांक 06.09.2006 (प्रतिसंलग्न) द्वारा मुझे सदर अस्पताल में कार्य करने का आदेश मिला। क्षेत्रीय उप निदेशक, स्वा० सेवाये, सहरसा का आदेश ज्ञापांक 335 (3) दिनांक 21.09.2006 (प्रति संलग्न) द्वारा मेरा पदस्थापन सदर अस्पताल, मधेपुरा किया गया, जहाँ मैं दिनांक 24.09.2006 को प्रभार ग्रहण कर दिनांक 24.05.2008 (ऐच्छिक सेवा निवृत्ति की तिथि) तक लगातार नियमित रूप से कार्यरत रहा।

4. यद्यपि मुझे महालेखाकार, बिहार, पटना का P.P.O No. 200913021477 दिनांक 17.12.2009 (प्रतिलिपि संलग्न) द्वारा औपबंधिक पेशन का भुगतान हो रहा है, परन्तु उपर वर्णित कार्यावधि के वेतनदि का भुगतान नहीं हो पाने के कारण अंतिम वेतन स्थिति का सही निधारित नहीं हो पाने के कारण सेवा निवृत्ति निम्नांकित दावे का भुगतान अभी तक नहीं हो पाया है:-

- (क) पेशन का अंतिम रूप से निधारण/भुगतान
- (ख) उपादान की राशि का भुगतान हुआ ही नहीं है,
- (ग) अव्यवहृत उपाजित अवकाश के बदले नगद राशि का भुगतान नहीं हुआ है,
- (घ) गुप इन्स्योरेश पालिसी का भुगतान नहीं हुआ है,
- (ङ) सामान्य भविष्य निधि लेखा संख्या - BHR/BHS- 4508 में संचित राशि की अंतिम निकासी नहीं हुई है।

5. उपर्युक्त वर्णित सभी दावों के लिये मैंने उच्च न्यायालय पटना में निमांकित दो समादेश याचिकाये दायर की थी:-

- (1) CWJC NO:- 2287/2012 पूर्ण सेवानिवृत्त लाभ हेतु तथा
- (2) CWJC NO:- 3371/ 2012 कार्यावधि के वकाये/लंबित वेतनदि भुगतान हेतु

6. उपर कंडिका- 5 में वर्णित दोनों समादेश याचिकाओं में माननीय उच्च न्यायालय, पटना द्वारा दिनांक 02.04.2012 को पारित अलग-अलग न्यायादेश (जिसकी प्रमाणित प्रतिलिपि मुझे दिनांक 11.04.2012 को प्राप्त हुई है) की प्रतिलिपि संलग्न करते हुए निवेदन है कि न्यायादेशानुसार निर्धारित समय-सीमा के अन्तर्गत मेरे उपर वर्णित सभी दावों का भुगतान सुनिश्चित करने की कृपा की जाय।

विश्वासभाजन

मिथिलेश्वर प्र० सिंह

(डा० मिथिलेश्वर प्र० सिंह)

ऐच्छिक सेवा निवृत्त चि०

पदा०

सदर अस्पताल, मधेपुरा

वर्तमान पता - बी०-५,

फ्रेंड्स हाउस ऐपार्टमेंट,

मौन्टेसरी गली

बौरिंग रोड, पटना

-800001

मो० नं०- 933437112