
(2018) 01 PAT CK 0062

In the Patna High Court

Case No : 6435 of 2011

Dr. Vindeshwari Prasad Sah & Ors

APPELLANT

Vs

The State Of Bihar & Ors

RESPONDENT

Date of Decision : 31-01-2018

Acts Referred:

Citation : (2018) 01 PAT CK 0062

Hon'ble Judges : Rajeev Ranjan Prasad

Bench : Single Bench

Advocate : Umesh Kumar, Sushil Kr. Singh, Madhav Pd. Yadav, Rajesh Kr. Singh, Durgesh Nandan, Kumar Kamal Nayan

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioners and learned counsel for the State in these three writ applications.
2. The facts are not in dispute. These petitioners are seeking a direction from this Court to the respondents to consider their request for voluntary retirement. It is their case that for seeking voluntary retirement, they are required to complete twenty years of service which they have already completed, and therefore, the State respondents are obliged to consider their applications for voluntary retirement.
3. On the other hand, learned counsel representing the State submit that in fact in these cases the petitioners have applied for their voluntary retirement only when a departmental proceeding had already been initiated against them. In the counter affidavit filed on behalf of the State it has been stated that the petitioner Dr. Vindeshwari Prasad Sah (in CWJC No. 6435/2011) Medical Officer, PHC, Samapur, Barari was found absent from his duty since January, 2004 and became traceless for which a notice was issued to him.
4. In the second writ application (CWJC No. 6431/2011), Dr. (Mrs.) Goreti Beck, Medical Officer, PHC, Barsoi, Katihar was found absent from her duty since

05.06.2007 for which a notice was issued through press communiqué in daily Newspaper Dainik Jagran. Photocopy of the notice has been brought on record by way of Annexure-A to the counter affidavit in the writ applications. This fact has not been disputed by the writ petitioners. This petitioner has completed 20 years of service after initiation of the departmental proceeding.

5. In the third writ application (CWJC No. 6881/2011), the petitioner namely, Bibhuti Pd. Sah, Medical Officer, Addl. PHC, Haldikhora, Kishanganj was found absent from his duty since 05.01.2006 vide Health Department Resolution No. 887(9) dated 15.09.2009. He has completed 20 years of service after initiation of the departmental proceeding.

6. Learned counsel for the State submits that because these petitioners are not putting their appearance in the departmental proceeding initiated against them, the proceeding is pending for about 9 years by now. They also submit that, in these circumstances, the petitioners are not entitled for the reliefs, as prayed for, in the extraordinary writ jurisdiction of this Court.

7. Having heard learned counsel for the parties, I find force in the submission of learned counsel representing the State in these writ applications. The facts are undisputed. These petitioners applied for their voluntary retirement only when the departmental proceeding was initiated against them. Even the departmental proceeding was initiated after publication of notice in the Newspaper. In the second and third writ petition the petitioners completed 20 years of service only during the on-going departmental proceeding.

8. In these circumstances, if the petitioners are not co-operating in disposal of the departmental proceeding, they are only at fault. No direction may be issued to the respondent-State to consider the application of the petitioner seeking voluntary retirement. In fact, this Court would direct the petitioners to appear in the departmental proceeding within a period of four weeks from today and ensure that departmental proceeding does not remain pending because of their non-appearance.

9. All these three writ applications are devoid of merit and are accordingly dismissed.