

(2020) 12 PAT CK 0339

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 2753 Of 2020

Manoj Kumar

APPELLANT

Vs

State Of Bihar And Anr

RESPONDENT

Date of Decision : 11-12-2020

Acts Referred:

Bihar Service Code, 1952 — Rule 76

Citation : (2020) 12 PAT CK 0339

Hon'ble Judges : Sanjay Karol, CJ; Partha Sarthy, J

Bench : Division Bench

Advocate : Kumar Brijnandan, S.D. Yadav

Final Decision : Disposed Of

Judgement

Petitioner has prayed for the following relief(s):

â??i) For issuance of an order (s) / direction (s) or writ(s) in the nature of Mandamus directing the Respondents to identify all the Doctors/ Medical

Officers working in Government Hospitals/ Health Centre of Bihar who are continuously absent from their place of posting for more than five years

and forthwith initiate the departmental proceedings against them for their dismissal from service as per Rule 76 of the Bihar Service Code, 1952.

And/Or

(ii) For issuance of an order (s)/ direction (s) or Writ(s) in the nature of Mandamus directing the Respondents to identify all the Doctors/Medical

Officers working in Government Hospitals / Health Centre of Bihar who are continuously absent from their place of posting for more than three

months and during their period of absence from duty the respondents be further directed to appoint other Doctors/Medical Officers at their place of

posting so that no inconvenience is caused to the general public and basic health care remains within the access of the common man. And/Or

(iii) For issuance of an order (s)/ direction (s) or writ(s) in the nature of Mandamus directing the Respondents to identify and initiate disciplinary

proceedings against the Health Department Officials and Civil Surgeons who saved the absentee Doctors/ Medical Officers working in Government

Hospitals/Health Centre of Bihar from dismissal from service in spite of the fact that as per Rule 76 of the Bihar Service Code, 1952 a Government

servant, after five years Continuous absence from duty, whether with or without leave ceases to be in Government employ. It may be noted that some

Doctors/Medical Officers have been Some dismissed from service after continuous absence from duty and place of posting for more than 20-25 years

as is evident from Annexure-2 (Series) . And / Or

(iv) For issuance of an order (s) / direction (s) or writ(s) in the nature of Mandamus directing the Respondents to put in place Biometric Attendance

System (BAS) for the Doctors/ Medical Officers working in Government Hospitals/ Health Centre of Bihar so that complete database of absentee

Doctors / Medical Officers and and the period of their absence are maintained alternative arrangements in place of absentee Doctors /Medical

Officers may be made by the respondents within reasonable time. And / Or

(V) Pass such other order orders which may appear fit and proper in the facts and circumstances of the instant case.â??

After the matter was heard for some time, learned counsel for the petitioner submits that petitioner shall be content if a direction is issued to the

concerned respondents to consider and decide the representation which the petitioner shall be filing for redressal of the grievance(s).

Petition is disposed of with the direction to the concerned respondent, namely to consider and dispose it of expeditiously and preferably within a period

of two months from the date of its filing along with a copy of this order.

It is clarified that the proceedings, during the time of current Pandemic-Covid-19 shall be conducted through digital mode, unless the parties otherwise

mutually agree to meet in person i.e. physical mode.

Equally, liberty is reserved to the petitioner to take recourse to such alternative remedies as are otherwise available in accordance with law.

We are hopeful that as and when petitioner takes recourse to such remedies, as

are otherwise available in law, before the appropriate forum, the same shall be dealt with, in accordance with law and with reasonable dispatch.

Needless to add, while considering such representation, principles of natural justice shall be followed and due opportunity of hearing afforded to the parties.

Liberty reserved to the petitioner to approach the Court, if the need so rises subsequently on the same and subsequent cause of action.

We have not expressed any opinion on merits.

The petition stands disposed of in the aforesaid terms.

Interlocutory Application(s), if any, also stands disposed of.