
(1997) 08 PAT CK 0038
In the Patna High Court
Case No : C.W.J.C. No. 12139 of 1996

Smt. Vyjainti Sinha

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 06-08-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 2 PLJR 515

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : Ganesh Prasad Singh and Sharad Kumar Sinha, for the Appellant;
Rameshwar Prasad and Shashi Bhushan Kumar, for the Respondent

Judgement

Radha Mohan Prasad, J.—In the present writ application the prayer of the Petitioner is to issue writ in the nature of mandamus commanding the Respondents to pay her salary and other emoluments which, according to her have not been paid since May, 1981 till date.

2. It seems that earlier also the Petitioner came to this Court in C.W.J.C. No. 1112 of 1988 and vide order dated 18.3.1988, learned Counsel for the Petitioner was permitted to withdraw the writ application because he wished to move the Bihar Administrative Tribunal.

3. It is submitted by Mr. Singh, learned Counsel appearing for the Petitioner that the said Tribunal is not functioning and the Petitioner is not being paid her salary till date though work is being taken from her and as such, she has filed the present writ application. It is further submitted that the Petitioner, who was working as Lady Health Supervisor under P.P. Programme in the Patna Medical College Hospital, was transferred to Piro Block, but the said order was stayed by the then Additional Director, Health, vide order dated-18.2.1985, contained in Annexure-2. The Petitioner accordingly, continued to work in the Patna Medical College Hospital.

4. Learned Advocate General appearing for the Respondents has submitted that it is a fit case in which this Court should decline to exercise the discretionary jurisdiction of this Court under Article 226 of the Constitution of India on account of gross laches on the part of the Petitioner. It is also submitted by the learned Advocate General that the order of transfer was made by the department and from the stay order, a true copy of which has been produced by the Petitioner as Annexure-2. It is not understandable as to under what circumstances such an order was passed by the Addl. Director. However, according to him, since the Petitioner has acted in a most negligent manner, she does not deserve any relief from this Court.

5. Having heard learned Counsel for the Petitioner, the learned Advocate General for the State and considering the facts and circumstances aforementioned. I direct that the matter regarding continuance of the Petitioner in P.M.C.H. shall be enquired into by the Health Commissioner and if the Petitioner is found to be continuing in P.M.C.H. and the authorities are taking work from her then the order for necessary payment for the work taken from her should be passed by him (the Health Commissioner) within a period of three months of the receipt/production of a copy of this order.

6. With the aforesaid observation and direction, the writ application is disposed of.