

Jitendra Kumar Dubey and Ors Vs. Health

Jitendra Kumar Dubey and Ors Vs. Health

SooperKanoon Citation : sooperkanoon.com/110622

Court : Jharkhand

Decided On : Jul-10-2017

Appellant : Jitendra Kumar Dubey and Ors

Respondent : Health

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S). No. 2881 of 2016

1. Jitendra Kumar Dubey, S/o Purusatam Dubey, R/o Purubdiha, Chainpur, Palamu 2. Pranay Guha, S/o Prafulla Guha, R/o Mohalla Hamidganj, Kumhartoli near Stone Mill, Daltonganj, Palamu.

3. Sanjeev Kumar, S/o Late Dwarika Prasad, R/o Laxmi Nagar near Jharkhand Public School, Hehal, Pandara, Ranchi at present R/o Mohalla Sudna, Daltonganj, Palamu.

4. Zainul Hussain S/o Late Nasiruddin Hussain, R/o Mohalla Paneri Galli, kund Mohalla, Daltonganj, Palamu. Petitioners Versus 1. The State of Jharkhand through Secretary, Health, Medical Education and Family Welfare Dept., Govt. of Jharkhand, Doranda Ranchi.

2. The Director-in-chief, Health Service, Govt. of Jharkhand, Ranchi 3. The Deputy Secretary, Health, Medical Education and Family Welfare Dept., Govt. of Jharkhand.

4. The Civil Surgeon, Palamu at Daltonganj(Medninagar), Palamu.

5. M/s Recorders & Medicare System Pvt. Ltd. Industrial Area Phase-I Chandigarh. Respondents ----- CORAM: HON'BLE MR. JUSTICE DR. S. N. PATHAK ----- For Petitioner : Mr. S.K. Tiwari, Advocate For Respondents : Mr. Krishna Murari Verma (GP1), Advocate ----- 07/ 10.07.2017 The petitioners have approached this Court with a prayer for direction the respondent Nos. 1 to 3 to grant/sanction on the request for allotment made by respondent No. 4 to release the amount for payment of salary along with the arrears to the petitioners as they are regularly working as Lab Asst./ X-Ray Tech. Etc. under the respondents and operating the medical equipment of respondents in Diagnostic Centre situated in the District Sadar Hospital, Palamu at Medninagar, Jharkhand. Further prayer has been made for immediately after release of allotment of fund by the State Government i.e. respondent Nos. 1 to 3, the arrears of salary w.e.f since August, 2012; including the current salaries may be paid to the petitioners as the petitioners are working regularly and performing their duties w.e.f August, 2012 but the salaries have not been paid to them. Factual Matrix:- The petitioners are residents of Medninagar/Palamu and working as Technician in the District Sadar Hospital, Medninagar, Palamu. The petitioner Nos. 1 and 4 are X-Ray Technician, petitioner No. 2 is Bio Medical Engineer and petitioner No. 3 ECG/TMT Technician, appointed by the respondent No. 5, under the terms and conditions of MOU between the Respondent No. 3 & 5 for operating the medical equipment of Respondent No. 1 to 4 situated in District Sadar Hospital Medninagar. It is the case of the petitioners that since their appointments till today, they are continuing in services in the District Sadar Hospital, Medninagar. The respondent No. 5 received the amount of salary of the petitioners from the Respondent No. 1 to 4 and paid to the petitioners up to the month of June, 2011. Thereafter, the respondent No. 5 did not pay the salary of the petitioners as the fund was not released by the respondent Nos. 1 to 4 regarding the payment of salary to the petitioners. It is further the case of the petitioners that they approached the respondent No. 4 for taking steps for paying of their salary. The respondent No. 4 made several correspondences with his higher officers, in which the respondent No. 3 directed the respondent No. 4 to make payment of salary directly to the petitioners and funds were also allotted and released for payment of the same. It is stated that though the petitioners made several representations but neither the

payment of salary was done nor any order was passed and the representations of the petitioners were pending since long and no order has passed till date, hence this writ application has been preferred. Learned counsel for the petitioners submits that though there was a specific direction of Respondent No. 3 to Respondent No. 4 regarding payment of salary directly to the petitioners and funds were also allotted, the same has not been paid to them. Learned counsel draws the attention of the Court towards the decision of the Respondents-authorities vide letter No. 2139 dated 24.11.2012 in which a decision was taken to release the salary directly to the petitioners in view of the fact that outsourcing agency, M/s Recorders & Medicare Systems (P) Ltd., Chandigarh is not making the payments neither taking care of the persons/petitioners though they have worked for it. In view of the decision taken by respondent Nos. 3 and 4, the petitioners are entitled for salary and same should be released and paid to them. On the other hand, counter-affidavit has been filed. Learned counsel for the respondents submits that they have written several letters to the respondent No. 5 for making payment as the fund has already been released and same has been paid to the respondent No.

5. Learned counsel draws the attention of the Court towards several paragraphs of the counter-affidavit particularly, paragraphs No. 12, 13 and 14 which shows that respondent Nos. 3 and 4 have requested the respondent No. 5 for making the payments to the petitioners. Be that as it may, having gone through the rival submissions of the parties, this Court is of the considered view that the case of the petitioners needs consideration. From the averments made in the counter-affidavit nowhere it has been stated that the petitioners have received the due amount. The fact remains that the petitioners have not received any amount to the tune of Rs. 3,94,560/- which was due to the each petitioners in the head of arrears of salary. In view of the admitted facts that earlier also request was made for payment of arrears of salary for the period, the petitioners had worked but the same was not paid to the petitioners. In view of those facts, a decision was taken by the respondents-authorities to release the amount of salary directly to the petitioners but the same has not been done. In view of the decision taken by the respondents-authorities vide letter dated 24.11.2012, it is an admitted fact and nowhere disputed by the respondents-authorities neither averments made in the counter-

affidavit that the petitioners have not worked for that period. The petitioners are concerned with the payments of their salary for the period which they have worked. They are not concerned with the allotments/ allocations made by the respondents-authorities. In view of the fact that the petitioners have worked for the said period and in view of fact that funds have already been allocated, the respondent No. 4 is directed to release the entire amount of salary for which the petitioners are entitled in accordance with law within a period of four weeks from the date of receipt of a copy of this order. Resultantly, the writ petition stands allowed. (Dr. S.N. Pathak, J punit/

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com