

**Sanjay Kumar Vs. State of Jharkhand and Ors**

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**Court :** Jharkhand

**Decided On :** Nov-30-2016

**Appellant :** Sanjay Kumar

**Respondent :** State of Jharkhand and Ors

**Advocate for Pet/Ap. :** Mr. Rajiv Nandan Prasad

**Judgement :**

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI. W.P. (S) No. 3494 of 2007 Sanjay Kumar S/o sri Doman Prasad working at sub-centre-Kedla Project No. II under the Primary Health Centre, Mandu P.S.- Mandu Dist.-Hazaribagh Petitioner -V e r s u s- 1. The State of Jharkhand 2. Secretary, Dept. of Health & Family welfare, Jharkhand, Ranchi.

3. Regional Deputy Director, Health Services, North Chotanagpur Division, Hazaribagh.

4. Civil surgeon-cum-chief medical officer, Hazaribagh, Dist.- Hazaribagh 5. In charge medical officer, Primary Health centre, Mandu, Dist.- Hazaribagh Respondents CORAM: - HONBLE MR. JUSTICE PRAMATH PATNAIK. For the Petitioner : - Mr. Rajiv Nandan Prasad, Advocate. For the Respondents : - Mrs. C. Prabha, S.C. IV and M/s. Vishal Kr. Rai and Leena Mukherjee, J.Cs. to S.C. IV. C.A.V. On: -04.08.2016 Delivered On: - 30/11/2016 Per Pramath Patnaik, J.: In the instant writ application, the petitioner has inter alia prayed for issuance of a writ in

the nature of certiorari for quashing the impugned order contained in letter no. 1853 dt. 24.10.2005, subsequently modified vide letter no. 2113 dated 02.12.2005, whereby the service of the petitioner was terminated with effect from the date of issue of the letter and further for issuance of a writ in the nature of mandamus commanding upon the respondents to release salary of the petitioner for the period October 1997 to till date and allow the petitioner to continue in the service without hindrance since the petitioner has been validly appointed by the competent authority and was working in the department continuously since 6.10.1994 and also for grant of other consequential benefits for which the petitioner is entitled to in accordance with law.

2. Sans details, the facts as disclosed and delineated in the writ application, are that the petitioner having all requisite qualification for the post of family welfare worker was initially appointed alongwith others 2 initially temporarily in the pay scale of Rs.975-1540 and was posted at primary Health centre, mandu, Hazaribagh with a direction to join within one month otherwise his appointment shall be cancelled automatically. It has been further averred that the petitioner complied with the direction of the concerned authorities as contained in appointment letter memo no. 12 (go) dated 6.10.94 and he joined in the office of the In-charge medical officer, mandu, Hazaribagh. The petitioner after joining the office of the In charge Medical Officer, Primary Health Centre, Mandu, was directed to join the Health sub-centre Banji within jurisdiction of I/C Medical Officer, Mandu vide memo no. 381 dated 09.12.1994. The petitioner was transferred from Banji Health Sub-centre (M.N.P.) on the post of B.H.W. till further order vide letter dt. 29.06.1996. Since after joining of the petitioner, prior to December, 1997, he was paid salary regularly, but, suddenly by an order dated 22.11.1997 issued by the respondent no. 3, the salary of the petitioner as well others were withheld and before passing the order of withholding salary of the petitioner no any notice or show cause etc. was issued to the petitioner. Soon after issuance of aforesaid order dt. 22.11.1997, the petitioner along with others submitted representations, alongwith relevant documents before concerned authorities as well as the respondents in pursuance where of vide memo dt. 29.08.1998, the order was issued by the respondent no. 3 for releasing all the salary of the petitioner and others forthwith, although in the said letter, it was mentioned that the enquiry

procedure shall continue. From the said letter dated 29.08.1998, whereby recommendation was given by the In charge M.O., P.H.C., Mandu, it is also apparent that the said order was perfectly legal and genuine, but, in spite of that no action was taken for payment of salary of the petitioner. The petitioner lastly represented before respondents for payment of salary by his representation dated 16.03.2000. A three member Enquiry Committee constituted by the Deputy Commissioner, Hazaribagh headed by the Senior Additional Collector to conduct enquiry into the illegal/forged appointment of an employee. The said Committee identified certain persons including the petitioner as illegally appointed and accordingly submitted a report to the Deputy Commissioner, Hazaribagh and accordingly, the Deputy 3 Commissioner, Hazaribagh withheld the salary of the employee vide memo no. 311 dated 5.3.2001 whose name appeared in illegal/forged list. The Respondent No. 4 vide memo no. 489 dt. 31.03.2001 released the salary of the petitioner along with other employee in compliance of the order of the Deputy Commissioner, Hazaribagh vide memo no. 1058 dated 31.03.2001, whereby the earlier order vide memo no. 311 dated 5.3.2001 was withdrawn. However, the respondents paid salary to all employees whose name appears in the list of forged/illegal, but petitioners salary has not been paid by the respondents-authorities. In spite of the above said order passed by the Higher Authorities, the respondents are sitting tight over the matter and the salary of the petitioner was not released, but similarly situated persons whose names also appears in list, their salary has been paid by the respondent authorities. Then the petitioner moved mover this Court by filing a writ application bearing W.P. (S) No. 5045 of 2003, praying therein, for direction upon the respondents to pay their salary due from December, 1997 till date considering the fact that the petitioner is continuously working under the respondents and he has every right to his salary as the respondent no. 5 without any rhymes and reason has withheld the same. The aforesaid writ application was finally heard on 14.10.2003, whereby this Court was pleased to dispose of this application in terms of the judgment dated 4.6.2001, passed in C.W.J.C. No. 1322 of 2000 with a direction to the respondents to release the admitted arrears of salary which has been withheld and the same shall be paid to the petitioner as expeditiously as possible and preferably within a period of two months from the date of receipt of copy of this order. After passing of

the said order, petitioner filed a representation alongwith a copy of the order dated 14.10.2003 before the respondents. The respondents considering the order of this Court and from the representation of the petitioner as well as relevant records, directed the respondent no. 4 (Civil Surgeon-cum-Chief Medical Officer) to pay the admitted dues of the petitioner vide memo no. 1033 (5) dated 16.12.2003, but no salary was paid to the petitioner. The petitioner preferred contempt application bearing cont. (civil) No. 1100 of 2004 before this Court for non-compliance of the order dated 14.10.2003, passed by this Court in W.P. (S) No. 5045 of 2003 and 4 during the pendency of the contempt petition respondents raising new issues with regard to the genuineness of the appointment letter of the petitioner and although no adverse report was submitted by the enquiry committee, against the petitioners, even then without issuing any show cause notice to the petitioner, terminated the service of the petitioner vide memo no. 1853, dated 24.10.2005 in a most illegal and arbitrary manner in flagrant violation of the principles of natural justice. After the appointment of the petitioner, he is continuously working under the respondents without hindrance, petitioner was engaged for the general election duty in the year 1998 and other duties like Leprosy, Malaria, Pulse polio and other several programme. The appointment of the petitioner was held to be illegal without verifying the relevant records which is evident from the fact that the respondent no. 4 in his letter no. 1890 dated 27.10.2005 has admitted himself that the issue register for the said period is not available in the office and in that view of the matter, when the appointment of the petitioner could not be verified from the relevant record. It was incumbent upon the respondents to give show cause notice to the petitioner before passing the impugned order of termination on the ground of illegal appointment. The aforesaid termination order dated 24.10.2005 was subsequently modified by the respondent no. 4 through letter no. 2113 dated 02.12.2005 to the extent that the petitioner is not entitled for any monetary benefits, just to deny the right of full claim of the petitioner for payment of salary in terms of the judgment dated 14.10.2003, passed by this Court in W.P. (S) No. 5045 of 2003. The aforesaid contempt petition was heard and disposed of on 16.02.2005 by dropping the contempt proceeding. Left with no other efficacious, alternative and speedy remedy, the petitioner has been constrained to approach this Court invoking the extraordinary jurisdiction of this Court under article 226 of

the Constitution of India for redressal of his grievances.

3. Per contra Counter affidavit has been filed on behalf of the respondent no. 5, repelling the contentions made in the writ application. It has been inter alia, submitted in the counter affidavit, that the prayer made by the petitioner is not tenable in the eye of law and in the facts and circumstances of the 5 case. It has been further stated in the counter affidavit that the enquiry was conducted by the three members committee headed by Senior Additional Collector and the said Committee made enquiry of those persons who were appointed after 01.01.1980. The Committee identified 32 persons as illegal appointees out of 439 persons. In the above mentioned list of 322 persons, the petitioner was not in the list of illegally appointed persons as because his details of appointment was not available in the office of the P.H.C., Mandu, Hazaribagh at that time. Subsequently, a letter issued by the Chief Malariya Officer, Bihar, Patna vide letter no. 5358 dated 10.05.2002 to the Medical Officer, In-charge, P.H.C., Mandu, Hazaribagh, stating specifically that no such alleged appointment letters were ever issued by his office. After receipt of letter dated 10.05.2002 from the Chief Malaria Officer, Bihar, Patna, the In-charge Medical Officer, Mandu, Hazaribagh wrote a letter to the Civil Surgeon-cum-Chief Medical officer, Hazaribagh vide letter no. 212, dated 17.05.2002 for necessary instruction and action against those petitioners. The petitioner has earlier moved before this Court in W.P. (S) No. 5045 of 2003 and this Court disposed of the said writ petition with a direction to the respondents to decide the claim of the petitioner and pay the admitted dues. The Secretary has directed the Civil Surgeon, Hazaribagh to inquire the matter and take decision on petitioner forged, fabricated and illegal appointment and also the appointment letter signature of the Civil Surgeon was found forged and this Court after considering the same dropped the contempt proceeding against the petitioner in Cont. Case (Civil) No. 1100 of 2004 vide order dated 01.09.2006.

4. A rejoinder to the counter affidavit filed by the Respondent No. 5 has been filed by the petitioner on 06.10.2009, wherein, it has been, inter alia, stated that the impugned order of termination of the service of the petitioner is wholly illegal, and in complete violation of the principles of natural justice and in view of the fact that before terminating the service of the petitioner neither any proper enquiry was

conducted nor the petitioner was given opportunity to show cause and simply on the basis of the letter of the Chief Malaria Officer, which has not been issued with respect to the case of the petitioner as the petitioner was not appointed by the Chief Malaria 6 Officer, he was terminated from services on the ground that his appointment has been found to be illegal and forged. The impugned order dated 24.10.2005 (Annexure-10) as modified vide letter dated 02.12.2005 (Annexure-12) is wholly illegal and violative of the principles of natural justice as the same has been issued on erroneous assumption of fact without affording any opportunity to show cause to the petitioner and, as such, liable to be quashed. The respondent authority has not given a clear finding as to how the appointment of the petitioner was found to be forged rather they have admitted in their counter affidavit that the enquiry conducted by the three men Committee did not identify the petitioner as illegally appointed person and his name does not find place in the list of illegally appointed persons, but simply on the basis of letter no. 538, dated 10.05.2002 of the Chief Malaria officer, Bihar, Patna, which was issued with respect to the case of Sri Suresh Sahu and Sri Sunil Singh, both Surveillance Worker and not with respect to the petitioner and on that basis held the appointment of the petitioner as forged and accordingly terminated his services. In spite of clear direction by the higher authority, when the salary of the petitioner was not paid to him, he filed W.P. (S) No. 5045 of 2003 before this Court, which was disposed of vide order dated 14.10.2003 in terms of the judgment and order dated 4.6.2001, passed in C.W.J.C. No. 1322 of 2000 with a direction to the respondents to release the admitted arrears of salary within a period of two months. During pendency off the contempt petition bearing Cont. Case (Civil) No. 1100 of 2004 filed by the petitioner, the respondents raised new issue with regard to the genuineness of the appointment letter of the petitioner and although there was no adverse report in this regard by the enquiry committee even then without issuing any show cause notice, the impugned order of termination was issued and, as such, the same was challenged in the present writ application. The petitioner has already submitted all the relevant documents before the respondent no. 5 on 12.04.2002 which was duly received in his office on 12.4.2002 itself. The petitioner also sent the relevant documents before the respondent no. 4 in July, 2001 through registered post. The respondent authority without proper verification of the records terminated the

service of the petitioner on 7 erroneous assumption of fact that the appointment letter of the petitioner is forged although there is no such finding by the enquiry committee in this regard.

5. Counter affidavit has been filed on behalf of the respondent no. 4, wherein, it has been, inter alia, stated that the case of the petitioner is that he was appointed temporarily on the post of the Family Welfare Worker in the pay scale of Rs. 975-1540/- vide Appointment Letter as contained in Memo No. 12 (go)/Hazaribagh dated 06.10.1994 by the then Civil Surgeon-cum- Chief Medical Officer, Hazaribagh and was posted at Primary Health Center, Mandu, Hazaribagh and accordingly, the petitioner joined the said post at Mandu, Primary Health Centre, District : Hazaribagh (now Ramgarh). The petitioner was paid salary prior to December, 1997 regularly, but, suddenly his salary was suspended vide Order dated 22.11.1997, issued by the Regional Deputy Director, Health Services, North Chotanagpur Division, Hazaribagh (Respondent No. 3). According to the petitioner, this action was violative of the principle of natural justice, since no show-cause notice was issued to him and accordingly, petitioner represented before the Respondent No. 3 and requested to release his salary and in turn, the respondent no. 3 issued Order as contained in Memo No. 600/Hazaribagh dated 29.08.1998 for release of the salary of the petitioner and further observed therein, to continue the enquiry against the petitioner and similarly situated person. But, in spite of the same, the salary of the petitioner was not released. In the meanwhile, the Deputy Commissioner, Hazaribagh constituted a Three Member Enquiry Committee headed by the Senior Additional Collector to enquire the illegal/forged appointment made in the Health Department as per the direction of the Superior Authority, Patna. According to the petitioner, the Three Member Enquiry Committee after conducting a detailed enquiry submitted its Report before the Deputy Commissioner, Hazaribagh and annexed therein, a list showing illegally appointed persons, including the name of the petitioner. Accordingly, the Deputy Commissioner, Hazaribagh vide Letter No. 176/C dated 16.01.2001 directed the Civil Surgeon, Hazaribagh to take legal action against such illegally appointed 322 Health Employees and further, the Deputy 8 Commissioner, Hazaribagh vide letter as contained in Memo No. 1083/Go.Hazaribagh dated 31.01.2002 directed the Civil Surgeon, Hazaribagh to identify these illegally appointed persons and not to

pay their salaries and accordingly, in compliance to such direction, order as contained in Memo No. 311/Hazaribagh, dated 05.03.2001 was issued by the Civil Surgeon, Hazaribagh, wherein, direction was issued to not pay salary to such illegally appointed employees. The petitioners name also appears in the list as contained in the Report of the Three Member Enquiry Committee. The petitioner by filing W.P. (S) No. 5045 of 2003 has moved before this Court and prayed, therein, to direct the respondent to pay his salary, which is due from December, 1997, till date and the said writ petition was disposed by vide Order dated 14.10.2003, with a direction to the respondents to release the admitted arrears of salary expeditiously within a period of two months from the date of receipt of copy of this order. Accordingly, the Deputy Secretary, Health, GOJ vide his letter No. 1033 (5) dated 16.12.2003 directed the Civil Surgeon, Hazaribagh to pay the admitted salary to petitioner, but, in spite of the same, the salary of the petitioner was not paid rather, his services has been terminated vide impugned order as contained in letter No. 1853/Hazaribagh dated 24.10.2005 (Annexure-10) and further modification order as contained in Letter No. 2113/Hazaribagh dated 02.12.2005 has been issued with a direction that the claim of Monetary benefit is not admissible since upon enquiry, it has been found that the petitioners appointment letter No. 12 (Go) dated 06.10.1994 was a forged and illegal document and, as such, the petitioner was never a legally appointed Government servant. The petitioner has prayed for quashing of these two impugned orders on the ground that no show-cause notice was issued to him before passing of the termination order and further, the Issue Register was found missing from the Office of the Civil Surgeon, Hazaribagh and, as such, the veracity of the issuance of the said Appointment Letter could not be verified from the relevant record. Further, the impugned order is in violation of the order dated 14.10.2003, passed in W.P. (S) No. 5045 of 2003. Petitioner has though stated that the Contempt Proceeding has been dropped vide order dated 16.02.2005, but has not annexed the copy of the same. According to the petitioner, he has continued in service for 11 years, but in spite of the same, without issuance of any notice to him, his services has been terminated and further, withholding of his salary, since December, 1997, is illegal and violative of Article 14, 16 and 300 A of the Constitution of India and hence, the petitioner has filed the instant writ petition. In

the present case, the In-charge Medical Officer, Primary Health Center, Mandu has filed counter affidavit and has inadvertently stated in his counter affidavit that the name of the petitioner was not included in the List as contained in the report submitted by the Three Member Enquiry Committee headed by the Senior Additional Collector and in fact, it is an admitted case of the petitioner that his name was included in the said List. The petitioner has suppressed the material fact in his writ petition by not bringing on record the relevant and important documents. Petitioner has tried to make out his case that there has been violation of natural justice in withholding his salary but the actual fact is that his claim for salary has been dealt with in a Contempt Proceeding and the said Contempt Petition has been dismissed by this Court vide order dated 01.09.2006. Thus, the petitioner has not come up with clean hand and on equity this writ petition is fit to be rejected. The petitioner has though leisurely mentioned in his writ petition about the Contempt Proceeding but has intentionally not annexed the copy of the Order dated 01.09.2006, passed in Contempt (Civil) Case No. 1100 of 2004. Petitioner ought to have approached the Honble Court with clean hand but this is not the approach of the petitioner right from the very beginning. A Contempt (Civil) Case No. 1100 of 2004 was filed against the order dated 14.10.2003, passed in W.P. (S) No. 5045 of 2003 and the said Contempt proceeding has been dismissed vide order dated 01.09.2006. In the order dated 01.09.2006, passed in Contempt (Civil) Case No. 1100 of 2004, it has been observed that petitioner claims to have been appointed by the then Civil Surgeon, Hazaribagh vide Memo No. 12 (Go) dated 06th of October, 1994 on the post of Family Welfare Worker in the Primary Health Centre, Mandu, Hazaribagh but from the verification made from the then Civil Surgeon, Hazaribagh, it has been found that no such letter has been issued by him and under his 10 signature during his tenure. In the dispatch register from which the alleged appointment has been shown to be issued, is not maintained in the office. Respondents have also pointed out that the Officer, who is said to have appointed the petitioner, was asked and he has already informed vide his Letter dated 25th of March, 2006, that no such appointment was made during his tenure. An F.I.R. has already been registered in this regard. Respondents have specifically denied the validity of the appointment of the petitioner. In this view of the matter, no contempt is made out as the direction of the Court was to release

the admitted arrears of salary. Respondents have denied that petitioner is entitled to any arrears of salary. This Contempt petition is accordingly, dropped. On the direction of the Superior Authority, the Deputy Commissioner, Hazaribagh constituted a Three Member Enquiry Committee headed by Senior Additional Collector. The said Committee enquired into the matter and submitted a detailed report that out of 439 employees, 322 were illegally appointed. Accordingly, order as contained in Memo No. 311 dated 05.03.2001 was issued by the Civil Surgeon, Hazaribagh and direction was issued to stop payment of salary of those persons, whose name is found mentioned in the list of 322 out of 439 employees issued by the said Committee. The name of the petitioner was included in the said list and accordingly, the salary of the Petitioner was stopped. Petitioner was issued Show-Cause Notice, as contained in Memo No. 934/Hazaribagh dated 06.06.2001 and accordingly, the petitioner was served the said notice, as it would be evident from the Service Report dated 26.09.2001. Letter as contained in Memo No. 2813 dated 07.12.1998 was issued by the Civil Surgeon, Hazaribagh to the Former Civil Surgeon, Hazaribag, namely, Dr. Anwarul Haque followed with a Reminder Letter dated 24.03.2006, wherein, he has categorically stated that the alleged Appointment Letter of Sanjay Kumar & three others were not issued by him during his tenure and further the said alleged appointment Letter does not bear his signature and it is a forged letter. Directions were issued by the Civil Surgeon, Hazaribag to the In-charge Officer, PHC, Mandu to lodge FIR against the petitioner and others, vide Letter No. 1890 dated 27.10.2005. Further, vide Letter dated 06.12.2005, direction was also issued by the 11 Deputy Secretary, Health Department to lodge FIR. Further, vide Letter No. 1003 (5)/Health/Ranchi dated 28.12.2005, direction was issued by the Joint Secretary, Health to the Civil Surgeon, Hazaribagh to lodge FIR against the petitioner. An FIR was lodged with Mandu Police Station vide Fardbeyan as contained in Letter No. 340 dated 13.12.2005 of the In-charge Officer, PHC, Mandu, Hazaribag but the same was returned by the Officer-in-charge of the Mandu Police Station vide his Letter dated 02.01.2006 on the point of their jurisdiction. But the Civil Surgeon vide his letter as contained in Memo No.2292 dated 21.12.2005, requested the Officer-In-Charge of the Mandu Police Station to register the FIR as lodged by the In-Charge-Officer, P.H.C., Mandu, explaining the jurisdiction lies only before the Mandu Police

Station. This action of the Officer-In-Charge of the Mandu Police Station was also reported to the Superintendent of Police, Hazaribag vide Civil Surgeon Letter dated 07.01.2006. Accordingly, an FIR No. 54 of 2006 was registered on 20.02.2006 at Mandu Police Station in respect to letter No. 66, dated 17.02.2006. Thereafter, vide Letter No. 745 dated 24.03.2006, the Civil Surgeon, Hazaribagh informed the Secretary, Health Department, Ranchi that FIR No. 54 of 2006 has been lodged against the Petitioner, Sanjay Kumar, Sri Binay Lal Sahu, Sri Santosh Kumar Verma and Sri Mehraj Alam under Sections 467, 468, 470, 471, 472 and 420 IPC. The petitioner filed writ petition being W.P. (S) No. 5045 of 2003 on the ground that there has been violation of natural justice and he has falsely stated, therein, that no notice has been served to him and his salary has been withheld since December, 1997. W.P. (S) No. 5045 of 2003 was allowed vide Order dated 14.10.2003 with a direction to the Respondents to release the admitted arrears of salary, which has been withheld and the same shall be paid to the petitioner as expeditiously as possible and preferably within a period of two months from the date of receipt of copy of this order. For non-compliance of the order dated 14.10.2003, passed in W.P. (S) No. 5045 of 2003, the petitioner filed Contempt (Civil) Case No. 1100 of 2004, in which the opposite party filed show-cause reply and brought to the notice of this Court that the letter of appointment of the petitioner was forged one and accordingly, the petitioner was never a Government Servant and the 12 petitioner was never appointed by the Government Order and the claim for salary is not admitted and an FIR has also been lodged against the petitioner. Accordingly, the contempt petition was dismissed vide order dated 01.09.2006. The salary of the petitioner has never been admitted and further, the petitioner has not rendered any duty nor the Government has directed him to work in the department and hence, no salary is due to the petitioner. Petitioner is not legally entitled to get any salary as his Appointment Letter itself is forged document and he was never a Government Servant. Thus, the ground taken by the petitioner that no show cause notice was issued and served to the petitioner is a blatant lie on the part of the petitioner. In fact, show cause notice was issued to the petitioner and also served to the petitioner. Petitioner is not entitled for salary for the period in question since the said claim is not admitted. The Appointment Letter itself is forged one and for which an FIR has also been lodged against the

petitioner and others. Petitioner was not a Government employee, since he has never been appointed by any Government Order and no relationship of employer and employee ever existed in between the parties and as such, there is no requirement to departmentally proceed against the petitioner. Show cause Notice was issued and served to the petitioner but the petitioner did not choose to reply the same and thus, the impugned orders have been passed in accordance with law and there is no violation of the Principle of natural justice in the present case and the impugned orders, passed by the Respondents are not illegal and arbitrary and are also not violative of Articles 14, 16 and 311 of the Constitution of India and in the facts and circumstances, the writ petition filed by the petitioner is fit to be dismissed in limine.

6. Heard Mr. Rajiv Nandan Prasad, learned counsel for the petitioner and Mrs. C. Prabha, learned S.C. IV appearing for the respondent-State.

7. Mr. Rajiv Nandan Prasad, learned counsel for the petitioner has vehemently submitted that the impugned order of termination of services of the petitioner is wholly illegal, arbitrary and amounts to penalizing the petitioner for approaching this Court for rightful claim of payment of salary for the period, he had worked. Learned counsel for the petitioner further 13 submits that in spite of the direction of this Court to pay the admitted salary, the respondents-authorities instead of making payment of the salary of the petitioner, terminated him from his services. Learned counsel for the petitioner further submits that the impugned order of termination of the services of the petitioner is wholly illegal and has been passed in violation of Articles 14 and 16 of the Constitution of India. Learned counsel for the petitioner further submits that the petitioner, who was appointed to the post of the Family Welfare Worker by the competent authority vide memo no. 12 (go) dated 06.10.1994 after following due procedure prescribed for such appointment and in pursuance, whereof, continued in service for 11 years, cannot be terminated without offering an opportunity of being heard in flagrant violation of the principles of natural justice. Learned counsel for the petitioner further submits that the petitioner, who by virtue of his legal and valid appointment made by the competent authority worked in the department since October, 1994 and received salary till 1997 and in that view of the matter, the action of the respondents in not

releasing the salary w.e.f. December, 1997 is wholly arbitrary and is in violation of Articles 14, 16 and 311 of the Constitution of India. Learned counsel for the petitioner further submits that in view of the fact that the respondents had taken work from the petitioner continuously without any hindrance, the petitioner is entitled to his salary without any delay. Learned counsel for the petitioner further submits that the petitioner, whose appointment has been made through a legal procedure and after following due process, as per the department law, cannot be terminated without following due procedure. Learned counsel for the petitioner further submits that without obtaining orders/recommendations of the higher authorities, the respondent nos. 3 and 4 have withheld the salary of the petitioner. Learned counsel for the petitioner further submits that the case of the petitioner is similar to other persons, in whose cases, the respondents have passed orders for payment of salary.

8. On the other hand, Mrs. C. Prabha, learned S.C. IV appearing for the respondent-State apart from justifying the impugned order of dismissal from service, has assiduously submitted that the petitioner never submitted any 14 documents such as appointment letters, educational qualification before the authorities and more so the petitioner was working on the basis of forged appointment letter. Learned counsel for the respondent-State further submits that the termination order was issued against the petitioner after proper verification of the records and it was found that his initial appointment is on the basis of forged appointment letter. Learned counsel for the respondent- State further submits that the Respondents have acted in accordance with and rule prescribed and not violated Articles 14, 16 and 311 of the Constitution of India. Learned counsel for the respondent-State further submits that in view of the facts and circumstances stated hereinabove, the instant writ petition is fit to be dismissed in limine and the petitioner is not entitled to any relief, as claimed by him.

9. After hearing the learned counsel for the respective parties at length and having given my anxious consideration to the issues involved in the instant writ application, I am of the considered view that the petitioner has not been able to demonstrate any legally tenable ground to warrant any interference in the impugned order of punishment due to the following factual and legal aspects : - (i)

For non-compliance of the order dated 14.10.2003, passed in W.P. (S) No. 5045 of 2003, the petitioner filed Contempt (Civil) Case No. 1100 of 2004, in which the opposite party filed show-cause reply and brought to the notice of this Court that the letter of appointment of the petitioner was forged one and accordingly, the petitioner was never a Government Servant and the petitioner was never appointed by the Government Order and the claim for salary is not admitted and an FIR has also been lodged against the petitioner and, accordingly, the contempt petition was dismissed vide order dated 01.09.2006. (ii) The salary of the petitioner has never been admitted and further, the petitioner has not rendered any duty nor the Government has directed him to work in the department and hence, no salary is due to the petitioner. Petitioner is not legally entitled to get any salary as his Appointment Letter itself is 15 forged document and he was never a Government Servant. Thus, the ground taken by the petitioner that no show cause notice was issued and served to the petitioner is a blatant lie on the part of the petitioner. In fact, show cause notice was issued to the petitioner and also served to the petitioner. Petitioner is not entitled for salary for the period in question since the said claim is not admitted. The Appointment Letter itself is forged one and for which an FIR has also been lodged against the petitioner and others. Petitioner was not a Government employee, since he has never been appointed by any Government Order and no relationship of employer and employee ever existed in between the parties and as such, there is no requirement to departmentally proceed against the petitioner.

10. In view of the reasons stated in the foregoing paragraphs, the impugned order of punishment of termination as contained in letter no. 1853 dt. 24.10.2005 (Annexure-11) subsequently modified vide letter no. 2113 dated 02.12.2005 (Annexure-12), passed by the Civil surgeon-cum-chief medical officer, Hazaribagh (Respondent no. 4), do not warrant any interference by this Court. Accordingly, this writ petition, sans merit, is hereby dismissed. (Pramath Patnaik, J.) APK

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