

**File No.3413/10**

The complaint of applicant Dr. Ashok Vardhan Sahay – a surgeon in Sadar Hospital Samastipur – is about non-payment of salary to the contractual doctors as well as government doctors of Samastipur district for eleven and six months respectively.

It is the admitted position that payment has since been made except for different period of eight months. The crux of the complaint, however – as it transpired in course of hearing – is the insistence on marking of attendance as per biometric system. It is for this reason that payment was put on hold. Although the system of marking biometric attendance is said to have been discontinued for the time being, the same is proposed to be enforced by the government.

Submissions were made in this regard. The applicant submitted that as per the information furnished under the RTI Act there is no system of marking attendance for the gazetted employees of the state government; but a different system is sought to be applied in the case of doctors. He thus complained of discrimination. The applicant also submitted that having regard to the special nature of duties and the fact that doctors are required to work during night hours too, the system of biometric marking of attendance is not practicable.

Having considered the matter, the Commission fully approves the biometric marking of attendance. The Commission is also of the view that this should be made applicable to all employees including the gazetted employees – irrespective of their grade and status. The Commission would however like to clarify that salary cannot be withheld in default of marking attendance alone. It is not provided in the rules. However, forfeiture of pay is one of the prescribed penalties imposable to government servants, and since stoppage of salary partakes the character of forfeiture – albeit for limited period, the Commission is of the view that this can be done but only after proper enquiry in a legally constituted proceeding. It need hardly be emphasised that once marking of attendance is made part of service conditions, any violation would amount to misconduct making the person concerned liable for departmental proceeding/action. The Government would do well to take policy decision and amend the rules wherever required.

As regards the doctors or others who do not have fixed duty hours or work in shifts, some way out may be found in consultation with the concerned associations.

Having observed thus, the Commission is not inclined to keep this file pending which is accordingly closed.

Copy of this order may be sent to the applicant, the Principal Secretary, Health Department and Collector, Samastipur for information.

Copy may also be sent to Chief Secretary, Government of Bihar for needful.

Date: 23.1.2013

Justice S.N. Jha  
Chairperson