

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13742 of 2015

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Bikash Kumar Prakash, son of Sri Prusottam Prasad resident of village Kehartari, P.S. Dumaria, District Gaya, presently posted as Assistant Manager Azam Nagar Branch of District Katihar

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary Finance Department, Govt. Of Bihar, Patna
2. The Chairman Central Bank of India, Mumbai
3. The Zonal Officer Central Bank of India Morya Complex, Bihar, Patna
4. The Regional Officer, Central Bank of India, Regional Office, Purnea
5. The Branch Manager, Central Bank of India Azam Nagar Branch of District Katihar

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Arun Kumar No. 1

For the Respondent/s : Mr. Ghanshyam Sharma, AC to GA7

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 03-09-2015 Heard learned counsel for the parties.

The petitioner in this writ application has prayed for the following relief:

“That by the present writ petition, the poor and helpless innocent petitioner craves indulgence before this Hon’ble Court for setting aside the suspension order dated 18.4.2015 bearing letter no. RO/PURN/HRD-DAD/2015-16/17 passed by Regional Manager, Purnea of Central Bank of India, contained in Annexure 2. Let it be clarified that the total amount of alleged misapropriate money has already been returned back to the bank and concern parties by the petitioner and hence petitioner be reinstated on his post with all arrears and current salaries.

And further for directing the Bank respondents to make payment of regular subsistence allowance during the pendency of this writ petition, because withdrawal of the

same has been withhold by the Bank respondents intentionally, so that due to economical crisis, the petitioner could not engage a lawyers of his own choice and could not defend himself properly.

And further for directing the respondents to stay the further departmental proceeding, initiated against the petitioner in this case during the pendency of this writ petition.”

Learned counsel for the petitioner has submitted that the order of suspension dated 18.4.2015 is based on non est and non-existent grounds and whatever has been alleged in that order pertaining to the alleged misconduct on the part of the petitioner is factually incorrect. He has also submitted that the petitioner has been denied the payment of subsistence allowance.

In the considered opinion of this Court there is no flaw in the order of suspension, inasmuch as it is found that the same is only by way of pending further investigation and disciplinary action to be taken against the petitioner. Learned counsel for the petitioner has admitted that the petitioner has been served with a memo of charge and he has also demanded copy of the documents. Then those documents having been supplied the petitioner has not been able to file his written statement of defence.

In that view of the matter, this Court will not find any reason to interfere with the order of suspension.

The next submission of the learned counsel for the petitioner as with regard to denial of payment of subsistence allowance would definitely demand an effective response from this Court but then what would really withhold this Court from directing the respondents to make payment of subsistence allowance is absence of pleading that the petitioner in the period of suspension had remained present in the Headquarters as also was clearly indicated in the last sentence of the order of suspension itself.

Thus, if the authorities find that the petitioner has remained present in the Headquarters fixed under the order of suspension, his payment of subsistence allowance shall be released forthwith but on the other hand, if it is found that the petitioner was not present in the Headquarters, an order rejecting the claim of the petitioner of subsistence allowance will be communicated. This exercise of either paying subsistence allowance or refusing on a valid ground must be completed within a period of two months from the date of receipt of this order.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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