

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 16999 of 2007

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Santosh Kumar, Son of Late Parmeshwar Prasad, Resident of Village –
Ishopur, P.S. Fulwarisharif District – Patna, at present posted and working
as Peon Civil Court, Vaishali at Hajipur.

.... Petitioner

Versus

1. The High Court of Judicature At Patna through Registrar General,
Patna.
2. The District and Sessions Judge, Vaishali at Hajipur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Md.Nurul Hoda

For the Respondent/s : AC to GP - 12

Mr. Bindhyachal Singh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7. 07-07-2015 Heard learned counsel for the petitioner, learned A.C.
to Govt. Pleader – 12 as well as learned counsel, who has
appeared on behalf of respondent/Patna High Court.

In the present writ petition, the petitioner has made a
prayer for peculiar relief i.e. for a direction to the respondents to
pay full salary during the period when the petitioner was inside the
jail. The petitioner remained in judicial custody from 23-09-1993
to 09-01-1994 in a police case registered for the offence under
Sections 498A & 306 of the Indian Penal Code.

It has been pleaded that since the petitioner put on
trial and subsequently acquitted, he is entitled to get full salary for
the period of suspension.

In this case, a counter affidavit has been filed and in counter affidavit, a stand has been taken that during the period of suspension, full subsistence allowance admissible in law was already paid to the petitioner.

So far as the claim for full salary during the period of custody is concerned, the Court is of the opinion that once a public servant is confined in jail and he is in custody, automatically, it is deemed that he is put under suspension and during suspension, only subsistence allowance is required to be paid. The reason for denial has been made by the respondent that on the basis of principle of ‘No Work No Pay’, full salary has not been paid to the petitioner.

In view of the facts & circumstances, I do not find any ground to pass any positive order in favour of the petitioner.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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