

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18318 of 2014

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Nagendra Prasad Sinha, aged about 57 years, S/o Late Badri Prasad resident of Mohalla - Garhpar, Nardiganj Road, P.O. AND P.S. AND District - Nawada

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, General Administration Deptt. Bihar, Patna
2. The Collector, Nawada
3. The Additional Collector, Nawadah
4. The Circle Officer, Rajauli Circle, P.S. Rajauli, District - Nawada

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Ambastha, Advocate.

For the Respondent/s : Mr. Prasoon Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

4 22-07-2015

Heard learned counsel for the parties.

2. The prayer of the petitioner in this writ application

reads as follows:

".... Direction commanding the respondent no. 1 to accept the joining of the petitioner and post in any revenue Circle after deemed revocation of Petitioner's suspension under Rule 9(7) of the Bihar Government Servants (Classification, control and Appeal) Rules, 2006."

3. In this case, a counter affidavit has been filed

wherein the respondents have enclosed an order dated 11.07.2015

by which his order of suspension was revoked with a direction to

initiate a departmental proceeding. In fact, by order dated

13.07.2015 the petitioner has also been given a place of posting in

Anchal Office, Kashichak. Thus this writ application for the

aforesaid relief has already been infructuous.



4. Learned counsel for the petitioner, however, submits that since the revocation of suspension under Section 9(7) of the Bihar Government Servants (Classification, control and Appeal) Rules, 2005 was automatic on account of non-framing of charge within the prescribed period and yet the petitioner was continued under suspension from 27.06.2012 to 11.07.2015, the respondents should be directed to pay arrears of salary to the petitioner at least from the date the petitioner's suspension order will be deemed to have revoked.

5. In the considered opinion of this Court, first of all no such relief has been sought for in this writ application. Secondly even if the learned counsel for the petitioner is allowed to make such oral submission in view of subsequent event it has to be still held that salary of the period of suspension will depend on the outcome of the departmental proceeding. The departmental proceeding against the petitioner is yet to be concluded. The charges, as indicated in the order of revoking suspension by Annexure-A to the counter affidavit, are quite serious and, therefore, this Court would not, for the time being, direct the respondent authorities for payment of any salary for the period of suspension till such suspension is held to be unjustified. The payment of full salary of the period of suspension to an employee subjected to departmental proceeding is not automatic but will

always depend on the finding of the authorities/court only on completion of departmental proceeding that such order of suspension on account of complete exoneration of the petitioner in the departmental proceeding was wholly unjustified. Thus for the time being, the petitioner will have to await the result of the departmental proceeding.

6. Keeping in view that such departmental proceeding ought to have been initiated earlier and in fact, having been not initiated, the petitioner's suspension order has been revoked, this Court would direct the Collector of Nawada District to ensure that not only memo of charge is served on the petitioner within a period of one month from the date of receipt of a copy of this order, but the departmental proceeding against him is also brought to an end within a period of six months from the date of filing of written statement of defence by the petitioner wherein the competent disciplinary authority also must take a clear decision as with regard to payment of salary, beyond subsistence allowance, for the period of suspension i.e. from 14.12.2012 to 11.7.2015.

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

(Mihir Kumar Jha, J)

Sujit/-

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