

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4047 of 2011

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Shri Manoj Kumar son of Sri Kuldip Barai, resident of village- Satsanda,
P.O.- Manghway, Distt.- Lakhisarai, Bihar, at present posted as Licensing
Authority, Nalanda, At P.O. + P.S.- Bihar Sharif Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Health,
Government of Bihar, Patna
 2. The Director- in -Chief, Health Services, Government of Bihar, Patna
 3. The State Drug Controller, Bihar, Patna
 4. The Additional Secretary, Department of Health, Government of Bihar,
Patna
 5. The Joint Secretary, Department of Health, Government of Bihar, Patna
.... .. Respondents
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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Adv.

For the Respondent/s : Mr. AC to SC-11

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 05-11-2015 Heard Sri Manoj Kumar, learned counsel for the
petitioner and learned AC to SC-11.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for quashing of an order, contained in Memo No.1222 (15) dated 30.06.2010(Annexure-9 to the writ petition), whereby a decision was taken that the payment of salary other than subsistence allowance for the period of suspension in respect of petitioner shall be considered after the decision by the court and the Vigilance Department.

Short fact of the case is that the petitioner on an allegation of accepting illegal gratification was apprehended by the Vigilance Investigation Bureau in the month of January, 2008 and he



was taken into custody. After noticing this fact that the petitioner was taken in custody, he was put under suspension vide Memo No.524 (15) dated 19.03.2008 (Annexure-1 to the writ petition). However, subsequently the petitioner was released on bail. He submitted his joining on 15.04.2008 and his joining was accepted on 04.07.2008. The petitioner was also proceeded departmentally, however the Conducting Officer submitted report exonerating the petitioner and, thereafter, vide order contained in Memo No.1836 (15) dated 08.09.2009 in view of enquiry report, it was decided to revoke suspension of the petitioner with a condition that the decision in respect of suspension will abide by the result of the vigilance case. Subsequently, vide order dated 30.06.2010 i.e. Annexure-9 to the writ petition, it was reiterated that the salary for the suspension period of the petitioner shall be subject to the result of the vigilance case, which has been challenged in the present proceeding.

Sri Manoj Kumar, learned counsel for the petitioner submits that once the petitioner was exonerated from the departmental proceeding, the petitioner is entitled to get full salary for his suspension period. According to learned counsel for the petitioner, the order impugned is liable to be set aside on the ground that the petitioner has been exonerated in the departmental proceeding.



Learned State Counsel has opposed the prayer of the petitioner. He, by way of referring to the averments made in the counter affidavit, submits that though it has been pleaded that the petitioner has been exonerated from the departmental proceeding, fact remains that vide Annexure-7 to the writ petition a decision was taken only in respect of consideration of suspension period. He submits that the petitioner is an accused in vigilance case, in which he is facing trial. Accordingly, he submits that it has rightly been decided that the claim for the salary for the suspension period of the petitioner shall be considered after final result of the vigilance case and, as such, the order impugned may not be interfered with.

Besides hearing learned counsel for the parties, I have also perused the materials available on record. On perusal of Annexure-7 to the writ petition, it is evident that on 08.09.2009 itself it was decided that consideration of suspension period shall be subject to the result of criminal case. In the present case, the petitioner has not made any prayer for quashing of the said order, which was passed on 08.09.2009 (Annexure-7 to the writ petition). There is nothing on record to suggest that the petitioner has been exonerated by specific order from the departmental proceeding. Of course, the conducting officer has reported in favour of the petitioner, the petitioner is still facing criminal trial on an allegation

of offence committed in discharging his official duty in a vigilance case and, as such, I do not find any defect in the impugned order.

The writ petition stands dismissed.

However, the Court is of the opinion that since the trap was made in the year 2008 itself, while dismissing the present writ petition, it is desirable to observe that the learned vigilance court/concerned court may take appropriate steps, so that criminal case in Vigilance P.S. Case No.06 of 2008 may come to its logical end. Vigilance Investigation Bureau is also directed to render full co-operation to the trial court for early disposal of the case

Let a copy of this order be sent to the Director/Addl. Director, Vigilance Investigation Bureau, so that Vigilance Department may render full co-operation to the trial court for early disposal of the case. The Vigilance Investigation Bureau is also directed to apprise the trial court with direction of this Court.

It goes without saying that this court has not recorded any opinion in respect of merit of the criminal case.

(Rakesh Kumar, J)

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