

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14317 of 2008

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Pandey Shrikrishna Sahai, son of Late Kameshwar Sahay, resident of 24, Ashutosh Nagar, P.O. Manas Nagar & P.S. Krishna Nagar, District Lucknow (U.P.)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Tourism, Government of Bihar, Patna
2. The Director, Tourism, Department of Tourism, Government of Bihar, Patna
3. The Deputy Secretary, Department of Tourism, Paryatan Bhavan, Birchand Patel Marg, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chittaranjan Sinha, Sr. Advocate
Mr. Amaresh Kumar Sinha

For the Respondent/s : Mr. Sanjay Prasad, AC to AAG 6

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 30-04-2015

Without going into the merits behind the imposition of punishment on the petitioner contained in Annexure- 8, the fact is that the petitioner came to be visited with three kinds of punishment. One, that he will not be entitled to his salary except the subsistence allowance during the period of suspension, 15.2.1995 would be treated as unauthorized absence, therefore, no pay and the third punishment is that period of suspension will be treated and adjusted against the leave available to the petitioner. The order of punishment is Annexure- 8 dated 21.12.1995 passed by the Managing Director of Tourism Department, Government of Bihar.

Annexure- 9 is the break-up of leave, which has been adjusted against the period of suspension, which was between 31.3.1995 to 20.12.1995, adding up to 265 days. Annexure- 13 is the order of rejection of prayer of the petitioner, which has been made in light of the order of the Court in earlier writ application.

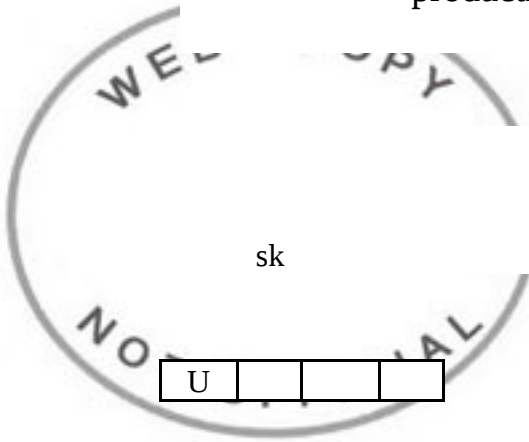
Stand of the counsel for the petitioner is that such a punishment is unheard of in the annals of service jurisprudence. A suspended employee is not on leave. He is as much as on service like any other government employee with a difference that during the period of suspension work is not taken from him. It is a contradiction that an employee will be treated under suspension as well as on leave.

It is a fanciful concept and the punishment, which came to visit the petitioner, was due to over enthusiasm and exuberance of the erstwhile Managing Director of the Corporation.

The punishment order of adjusting various kinds of leave including earned leave of the petitioner as explained in Annexure- 9 is quashed so is the third punishment contained in Annexure- 8 as well as Annexure- 13.

Writ application is allowed with a direction upon the Tourism Department, Government of Bihar to ensure that if petitioner is entitled to monetary value of earned leave etc., it will

accrue to him within a period of three months from the date of
production of a copy of this order.



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(Ajay Kumar Tripathi, J)