

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19825 of 2010

=====

Md. Tanwirul Quamar, S/O Md. Sulaiman, R/O at and P.O.- Haiderganj,
Karah, P.S.- Silao, Distt.- Nalanda and at present Deputy Collector
(Suspended), office of Divisional Commissioner, Magadh Division, Gaya

.... Petitioner

Versus

1. The State of Bihar represented through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary Department of Personnel and Administrative Reforms, Bihar, Patna
3. The Under Secretary to the Government, Department of Personnel and Administrative Reforms, Government of Bihar, Patna

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra, Advocate

For the Respondent/s : Mr. Lalit Kishore, P.AAG

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL ORDER

4 20-03-2015 The petitioner was placed under suspension through Memo. dated 2.11.2010. An order was issued in terms of Rule-9(1)(C) of the Bihar Government Servant (Classification, Control and Appeal Rules, 2005. The basis for suspension was that the petitioner was arrested with reference to a criminal case instituted against him. At one stage, on 11.4.2011 the writ petition was allowed.

However, the same was reviewed and the writ petition was directed to be heard afresh.

The respondents filed a counter affidavit opposing the writ petition.

Heard Shri Sanjeev Kumar Mishra, learned counsel for the petitioner, and Mr. Lalit Kishore, Principal AAG for the State.

The suspension, no doubt, was warranted on account of the arrest of the petitioner with reference to a criminal case. Though this Court would not have been inclined to interfere with the order of suspension at the initial stage, a different approach is warranted in view of passage of seven years from the date of suspension. The only basis for continuing the petitioner under suspension is pendency of the criminal case. It is fairly well known that suspension pending enquiry beyond a point tends to become a punishment by itself. Apart from that, it would not be in the interest of the employer to pay substantial amount towards subsistence allowance without extracting any work.

The writ petition is, therefore, allowed and the order of suspension is set aside, without prejudice to the pending criminal case or the disciplinary proceedings, if

any, pending against the petitioner.

Interlocutory application, if any, stands disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

K.C.jha/-
N.A.F.R.

U			
---	--	--	--