

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6221 of 2016

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Chandan Kumar Mandal, Son of Late Baidyanath Mandal, Resident of village + P.S. -Bausi, District - Arariya At present attached with the office of Divisional Commissioner, Patna Division, Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. Additional Secretary, General Administration Department, Government of Bihar, Patna.
3. Commissioner, Department Inquiry, General Administration Department, Government of Bihar, Patna.
4. Principal Secretary, Cabinet Secretary - Cum Additional Commissioner, Department Inquiry, General Administration Department, Government of Bihar, Patna.
5. Divisional Commissioner, Patna Division, Patna,
6. District Magistrate, Purnea.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh
For the Respondent/s : Mr. Upendra Pratap Singh, AC SC-4
Mr. S,K, Mallick, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 16-12-2016

Heard Mr. Jitendra Prasad Singh, learned counsel appearing for the petitioner and Mr. Upendra Pratap Singh, learned Assisting Counsel to Standing Counsel No.4 for the State.

The petitioner is aggrieved by the order bearing Memo No.217 dated 6.1.2016 whereby the petitioner has been put under suspension in exercise of power vested under rule 9(1) (a) and (c) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'the Rules').

It is the contention of Mr. Singh, learned counsel appearing



for the petitioner that it is following the institution of vigilance case bearing Vigilance P.S. Case No.069 of 2015 registered for the offences punishable under sections 7(13) (2) read along with section 13(1) (d) of the Prevention of Corruption Act, 1988 alleging that the petitioner was caught red-handed while accepting bribe money that led to the suspension of the petitioner vide Memo No.13496 dated 9.9.2015 present at Annexure-4. The order of suspension was passed under rule 9(1) (a) and (c) of 'the Rules'. He submits that since no charge-sheet was framed in the disciplinary proceeding that the suspension order was revoked vide order bearing Memo No.205 dated 6.1.2016, a copy of which is present at Annexure-7 but on the same day a fresh order of suspension was passed vide Memo No.217, impugned at Annexure-8 . He submits that it is following the suspension order that the disciplinary proceeding has been initiated by service of charge-sheet vide resolution bearing Memo No.1338 dated 27.1.2016 impugned at Annexure-9. According to Mr. Singh, the action of the respondents in passing an order of revocation of suspension and passing a fresh suspension order on the same date i.e. 6.1.2016 is an arbitrary exercise of power.

Mr. Singh further submits that since the respondents have themselves revoked the suspension vide order bearing Memo No.205 dated 6.1.2016 vide Annexure-7 the petitioner has become entitled to payment of salary for the period preceding thereto.

I have heard learned counsel for the parties and I have perused the records and considering the nature of allegation set up



against the petitioner in vigilance case, which also has led to initiation of a disciplinary proceeding vide Annexure-9, I am not persuaded to interfere with the order of suspension.

The writ petition is accordingly disposed of with a direction to the Disciplinary Authority to ensure the conclusion of the disciplinary proceeding expeditiously and preferably within a period of six months from the date of receipt/production of a copy of this order and in case the disciplinary proceeding is not disposed of within six months as stipulated above for reasons not attributable to the petitioner then the Disciplinary Authority should consider the prayer of the petitioner for revocation of the suspension within four weeks next.

In so far as the prayer for salary is concerned, considering that the order of suspension dated 9.9.2015 impugned at Annexure-4 was revoked by the respondents themselves on 6.1.2016 the petitioner has become entitled for payment of salary for the said period which should accordingly be paid to the petitioner preferably within six weeks from the date of receipt/production of a copy of this order.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25-12-2016
Transmission Date	NA

