

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15820 of 2015

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Surya Kumar Ram, S/o Late Yamuna Ram, resident of Village Degma, P.O. Siur,
P.S.- Roh, District Nawada. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Agriculture Department, Govt. of Bihar, Patna.
 2. The Agriculture Production Commissioner, Govt. of Bihar, Patna.
 3. The Director, Agriculture Department, Govt. of Bihar, Patna.
 4. The Joint Director, Agriculture Department, Govt. of Bihar, Gaya.
 5. The District Magistrate, Jehanabad.
 6. The District Agriculture Officer, Jehanabad.
 7. The Block Development Officer, Ghosi, Jehanabad. Respondents
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Appearance :

For the Petitioner/s : Mr. Chandra Mohan Singh, Advocate

For the Respondent/s : Mr. Ritesh Kumar, SC-33

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 02-05-2016

Heard learned counsel for the petitioner and the State.

2. The petitioner seeks quashing of the order of suspension passed on 10.11.2014 on the ground that no charge-sheet was submitted within three months in terms of Rule 9(7) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as the 'Rules, 2005').

3. In the year, 2014, the petitioner was posted as Block Agriculture Officer, Ghoshi. He was assigned additional charge of Block Agriculture Officer, Haulasganj. He was put under suspension, on 10.11.2014, on the charge of dereliction in duty. He filed the instant writ application, on 01.10.2015, praying therein to

quash the order of suspension, as no charge-sheet has been submitted within three months, as contemplated under Section 9(7) of the Rules, 2005.

4. Learned counsel for the petitioner submits that the charges were framed, on 11.08.2015, after ten months, though the same was served on him in March, 2016. The petitioner submits that in view of the Full Bench decision of this Court passed in case of **the State of Bihar & Others Vs. Gyan Kumar Ram**, reported in **2009 (4) PLJR 272**, in absence of filing of charge-sheet beyond the period of three months or a maximum beyond a period of seven months, the suspension order would be liable to be struck down.

5. Counsel for the State submits that the charge-sheet was framed on 11.08.2015, much before filing of writ application.

6. Rule 9 of the Rules, 2005 deals with the order of suspension. In order to ensure that no one is unnecessarily harassed by putting him/her under suspension for a long time, the Government has endorsed certain restrictions in the Rule itself. Rule 9 of the Rules, 2005, does give a power to the disciplinary to suspend a Government employee. Rule 9 (7) of the Rules, 2005, which is relevant in the context states that the disciplinary authority must frame charges against the delinquent within three months from the date of order of suspension, failing which the suspension order shall be revoked,

unless the authority passes afresh order renewing the suspension alongwith the reasons to be recorded in writing for the delay in framing of charge-sheet for a maximum of further four months.

Rule 9(7) of the Rules, 2005 is quoted herein below for easy reference:

“9(7) Charge-sheet must be framed within *three* months from the date of issue of suspension order failing which on expiry of *three* months, the suspension order shall be revoked unless the authority, which issued the suspension order, passes the order renewing the suspension alongwith reasons to be recorded in writing for the delay in framing of charge-sheet for a further period of *four* months:

Provided that after the expiry of extended period of *four* months the suspension order shall stand revoked if the charge-sheet is not framed.”

7. Thus, as per Rule 9(7) of the Rules, 2005, a person can be put under suspension in contemplation of departmental proceeding for a maximum of *seven* months. If charge-sheet is not framed within that time and the Government servant moves the department or files any application before a competent authority, he would be entitled to revocation of suspension from the date of filing of such application. However, the Full Bench further observed that in

case, if an employee fails to exercise such right of being reinstated and either charge-sheet is framed or order of suspension is renewed for reasons to be recorded in writing, imperfect right of the employee gets defeated.

8. In the instant case, the charge-sheet was framed on 11.08.2015, which was much beyond the period of seven months from the date of suspension passed on 10.11.2014, and the petitioner has not moved this Court between 10.11.2014 to 11.08.2015, but the petitioner did not file any application either before the competent authority or before this Court for revocation of suspension between the aforesaid period in view of Full Bench decision. He filed an application for revocation of suspension on 01.10.2015 before this Court. He would not be entitled to the said relief in view of Full Bench decision of this Court passed in case of The State of Bihar & Ors. Vs. Gyan Kumar Ram (Supra) Nonetheless, as the petitioner is continuing under suspension since 10.11.2014, if the departmental proceeding is not concluded within a period of six months from today, the order of suspension would stand vacated automatically.

9. The writ application stands disposed of.

(Samarendra Pratap Singh, J.)

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