

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2940 of 2014

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Prabhu Narain Labh, son of Late Badri Narain Labh, Resident of Village-
Gorapatti, P.S.- Ashok Paper Mills, District-Darbhangha.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary Revenue and Land Reforms
Department, Government of Bihar, Patna.
2. The District Magistrate, Darbhanga.
3. The Deputy Collector (Establishment), Darbhanga.
4. The Sub Divisional Officer, Darbhanga.
5. The Circle Officer, Hayaghat, District Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Karn

For the Respondent/s : Mr. R.R. K Pandey

For the State : Mr. Tej Pratap Singh, AC to AAG-13

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 19-10-2016 Heard Mr. Sunil Kumar Karn, learned counsel

appearing for the petitioner and Mr. Tej Pratap Singh,

Assisting Counsel to A.A.G.-13 for the State.

The writ petition was filed with a three fold relief.

Whereas relief no.(i) and (ii) at paragraph-1 of the writ petition
prays for appropriate direction to the respondent to conclude
the departmental proceeding initiated vide memo no.1384
dated 2.8.2011, the relief no.(iii) prays for a direction to the
authority concerned for making payment of arrears of salary
for the following period:

- a) Arrears of salary for the period 24.8.2006 to
June 2007.
- b) Arrears of salary for the month of July 2004.
- c) Arrears of salary (Duty) for the period 24.8.2005
to 31.8.2005.
- d) Arrears of D.A. for the month of August 2005.
- e) Arrears of salary for the month of November,

2005.



When this matter is taken up, Mr. Karn, learned counsel appearing for the petitioner informs that in so far as relief nos.(i) and (ii) of the writ petition is concerned, it has been rendered infructuous by the passing of final order in the departmental proceeding and thus the petitioner may be granted liberty to question the same in a duly constituted proceeding but at the same time he submits that in so far as relief no.(iii) is concerned, although the counter affidavit encloses a letter dated 23.7.2007 at Annexure-G to deny the arrears of salary on various grounds mentioned therein but the fact is that no notice was given to the petitioner before withholding his salary for the period concerned. He thus submits that the reason be whatsoever, any action of withholding the salary of the petitioner has to be taken after due notice and opportunity of hearing to the petitioner. He prays for appropriate direction to the District Magistrate who according to the petitioner would be the authority concerned to consider his grievance.

Mr. Singh, learned State Counsel while disputing the position has submitted that the salary was withheld because of the unauthorized absence of the petitioner.

I have heard learned counsel for the parties and I have perused the records.

In so far as the relief present at serial no.(i) and (ii)

of paragraph 1 is concerned, in view of the final orders passed in the departmental proceedings, the petitioner is granted liberty to question the same in a duly constituted proceeding. In so far as relief no.(iii) is concerned, although the letter dated 23.7.2007 mentions the reason for withholding the salary due to unauthorized absence of the petitioner but as per Mr. Karn, such decision was taken without notice or opportunity of hearing to the petitioner.

In the circumstances discussed above, I deem it fit and proper to dispose of the writ petition with a liberty to the petitioner to raise his claim before the District Magistrate, Darbhanga in so far as it relates to payment of salary for the period set out above and also discussed in Annexure-G and any such representation being filed by the petitioner would be considered and disposed of by the Collector-cum-District Magistrate, Darbhanga in accordance with law expeditiously and preferably within three months from the date of receipt/production of the copy of this order.

(Jyoti Saran, J)

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