

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11419 of 2015

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1. Raj Kumar Roy Son of Late Dukhan Roy resident of Nand Gola, Police Station Malsalami, District Patna.

.... Petitioner/s

Versus

1. The Patna Municipal Corporation through the Municipal Commissioner, Maurya Lok, Patna.
2. The Additional Municipal Commissioner, Patna Municipal Corporation, Maurya Lok, Patna.
3. The Executive Officer, Bankipur Circle, Patna Municipal Corporation, Patna.
4. The Legal Advisor, Patna Municipal Corporation, Maurya Lok, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rupak Kumar, Adv.

For the Respondent/s : Mr. Sanjay Prakash Verma, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 30-09-2016

Heard Mr. Rupak Kumar, learned counsel for the petitioner and Mr. Sanjay Prakash Verma, learned counsel appearing for the Corporation.

The writ petition was filed for quashing the order dated 27.8.2014 bearing Memo No. 5253 of the Municipal Commissioner whereby the petitioner was put under suspension. The petitioner also prayed for reinstatement with all consequential benefits including arrears of subsistence allowance. The petitioner encloses a proceeding of the Empowerment Committee of the Patna Municipal Corporation at Annexure-4 and at Agenda No.380 a resolution was passed by the Committee to revoke the suspension of the petitioner. It is following



the decision of the Empowerment Committee that the suspension of the petitioner was revoked vide order bearing Memo No.6391 dated 31.1.2015 of the Municipal Commissioner which is accompanied with punishment of censure and withholding of one annual increment with non- cumulative effect. The order of revocation of suspension has been placed on record by the petitioner vide Annexure-9 to the supplementary affidavit.

The grievance of the petitioner as advanced by Mr. Rupak Kumar is that even though the relief prayed by the petitioner at paragraph 1 stands satisfied yet the relief prayed at paragraph 2 yet subsists for the petitioner neither has been paid the subsistence allowance nor any order to such effect has been passed. It is the submission of Mr. Kumar that on revocation of suspension, the petitioner would become entitled to his pay and allowance in absence of any order to the contrary.

This matter was heard on 17.02.2016 and time was granted to Mr. Verma to seek instructions and file counter affidavit. The matter is taken today when Mr. Verma informs that he has not received instructions.

In the circumstances discussed and in view of the provisions present at Rule 11 of the Bihar Government Servant (Classification, Control and Appeal) Rules 2005, I deem it fit and proper to direct the

Municipal Commissioner, Patna Municipal Corporation to consider the grievance of the petitioner and pass appropriate orders for payment of the arrears of the subsistence allowance/admissible pay and allowances, as the case may be, as found admissible to the petitioner, within a period of six weeks from the date of receipt/production of a copy of this order.

The writ petition is disposed of.

(Jyoti Saran, J)

Bibhash/-

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