

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12138 of 2014

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Shiva Shankar Verma, Son of Sri Ram Pal Verma, at present resident of Flat No. 401, Sona Place Apartment, Sheikhpura, P.S- Shastri Nagar, District- Patna- 800014 (Bihar),; presently reside of House No. 406, Saubhagya Sharma Path, Rukunpura, Bailey Road, Patna- 14.

.... Petitioner/s

Versus

1. The Union of India through the Ministry of Personnel Public Grievance and Pensions, Department of Personnel and Trainings, Government of India, North Block, New Delhi- 110001.
2. The Under Secretary, Ministry of Personnel and Public Grievances and Pensions, Department of Personnel and Training, Government of India, New Delhi- 110001.
3. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
4. The Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
5. The Joint Secretary, Personnel and Administrative Reforms Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Advocate
Mr. Sanjay Kumar Singh, Advocate

For the Respondents –U.O.I. : Mr. Rabindra Kr. Sharma, C.G.C.

For the Respondents-State : Dr. Anil Kumar Upadhyaya, S. C.- 2
Mr. Naresh Prasad, A.C. to S.C.-2

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 01-09-2016

The writ application was dismissed as not pressed on 25th of April, 2016. The writ application has been restored by the separate order passed today in Civil Review Application No.289 of 2016 which stands allowed.

2. With the consent of the parties, the writ application is taken up for hearing today itself.

3. The challenge in the present writ application is to an order passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as 'the Tribunal') on 31st of March, 2014 whereby, the challenge to the order of suspension remained unsuccessful.

4. The petitioner is a member of Indian Administrative Service, Bihar Cadre, 1981 batch. He was posted as Secretary, Minor Irrigation, Government of Bihar, when he was placed under suspension on 13th of July, 2007 on the allegation of acquiring assets disproportionate to his known sources of income. There was an F.I.R. lodged under Sections 13(2) and 13(1) of the Prevention of Corruption Act, 1988 as well. The appellant was suspended on 13th of July, 2007. His suspension was ordered to be continued by the Review Committee on 17th of October, 2007. The challenge in an Original Application before the Tribunal was to the order of continuation of suspension.

5. In the counter affidavit, the stand of the respondents is that the suspension of the petitioner was under Rule 3(3) of the All India Services (Discipline & Appeal) Rules, 1969 (hereinafter referred to as 'the Rules'). It is also pointed out that the suspension of the

petitioner has been reviewed from time to time by the Suspension Review Committee and it was decided that suspension of the petitioner should continue in view of the reported allegation, gravity of the vigilance case, ongoing investigation, probability of submission of charge-sheet etc.

6. The learned Tribunal found that stipulation under Rule 3(3) of the Rules does not contemplate issuance of charge-sheet within a period of 90 days from the date of suspension. It also noticed that the Suspension Review Committee actually held its meeting on 25th September, 2007 within 90 days, but the formal orders were issued on 17th October, 2007. Therefore, the natural time lag is not fatal to the continuation of suspension. In view of the aforesaid fact, the Tribunal did not find any error in the order of continuation of suspension.

7. We have heard learned counsel for the parties and find no merit in the present writ application. In terms of Rule 3(3) of the Rules, the charge-sheet is not required to be issued within 90 days. Still further, the Suspension Review Committee held its meeting within three months, i.e. on 25th September, 2007 and ordered for continuation of suspension, though formal order was issued on 17th October, 2007. The last Suspension Review Committee held its meeting on 17th December, 2012, in which it was decided to continue with the suspension. It may be mentioned that the petitioner attained the age of

superannuation on 28th of February, 2013.

8. Keeping in view that Vigilance case in respect of disproportionate assets to the known source of income is pending against the petitioner, therefore, the suspension of the petitioner is a natural consequence. We do not find any error in the order passed by the Tribunal. The writ application is, accordingly, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	N. A. F.R.
CAV DATE	N. A.
Uploading Date	09.09.2016
Transmission Date	