

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13895 of 2013

=====

Sharmila Sinha Wife Of Shri Dipak Kumar Sinha Resident Of Mohalla Yarpur, P.S.
Gardanibagh, District Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Collector, Patna
3. The Block Development Officer, Patna Sadar, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Satish Kumar Sinha

For the Respondent/s : Mr. A. Karim, AC to GP-10

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 01-12-2016

Heard learned counsel for the petitioner and counsel for the
State.

In this case, the petitioner is challenging an order no. 3003 dated 28.6.2008 (Annexure-3) whereby and whereunder the Collector, Patna has rejected the claim of earned leave to the petitioner for the period 6.5.2004 to 9.9.2004 (total 70 days) but granted leave on the basis of 'no work no pay'. The petitioner has also challenged the order no. 1114 dated 2.4.2013 (Annexure-5) whereby the Collector, Patna has rejected the representation dated 4.1.2013 with regard to claim of earned leave for her absence on account of her medical ground.

As per case of the petitioner, the petitioner was appointed on the post of Clerk in the year 1986 on compassionate ground. Due to miscarriage of pregnancy and typhoid, she was under treatment of doctor from 6.5.2004 to 9.9.2004 i.e. total 70 days. After she



recovered from the ailment, she reported to duty and filed an application for grant of leave but the Block Development Officer, Patna vide letter no. 1399 dated 9.6.2008 wrote a letter to the Deputy Collector (Establishment), Patna informing him that the petitioner had remained absent continuously and has not given any application for grant of leave under the earned leave category. It appears that the application of the petitioner remained under consideration and ultimately the Collector, Patna vide Memo No. 3003 dated 28.6.2008 granted leave on the principle of "no work no pay" whereas a plea has been taken by the petitioner that as already sufficient earned leave is standing in her account, she should be given earned leave instead of leave with "no work no pay". The petitioner had also filed an application before the Collector, Patna and the Collector, Patna without considering the fact mentioned in her application in the right perspective rejected her application. It appears that the petitioner has claimed that her leave should be adjusted against the earned leave on the only ground that she remained confined to the bed because of miscarriage of pregnancy and she was suffering from fever of the Typhoid.

If the petitioner was suffering from such a medical problem, the authority concerned is expected to consider her predicament what she had faced and the authority must take a balancing view and should



have dealt with the matter properly but, both the orders of the Collector, Patna does not reflect that the Collector, Patna has applied his mind to the fact and the problem the petitioner has faced and straightway rejected the application of the petitioner. The application which has been filed before the Collector, Patna itself discloses that the petitioner has also wrongly been deprived of her A.C.P.

Accordingly both the orders of the Collector, Patna are set aside and the matter is remanded back to the Collector, Patna who will examine her application of the petitioner and pass order in accordance with law.

Before parting with the order, this Court also feels that it is desirable for the Collector, Patna to see as to why the petitioner has been deprived of the A.C.P. and if the she has wrongly been deprived of the benefit of A.C.P., the Collector must do justice to her and take action in accordance with law.

The Collector must decide the issue within a period of three months from the date of receipt/production of a copy of this order.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2016
Transmission Date	

