

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8738 of 2014

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Satyendra Narayan Singh Son of Late Kapildeo Singh Resident of Hasuaha, P.S. Hasuaha, Block - Motihari Dehat, District - East Champaran presently posted as Incharge Headmaster, Middle School, Lalbegiya, Chiraiya, East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Human Resources Development Department, Govt. of Bihar, Patna
3. The Director, Primary Education, Human Resources Development Department, Govt. of Bihar, Patna.
4. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur
5. District Education Officer, East Champaran
6. The District Programme Officer (Establishment), East Champaran, Motihari
7. The Block Education Officer, Sugouli, East Champaran
8. The Block Education Officer, Motihari Dehat, East Champaran

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Tej Bahadur Singh, Sr. Advocate Mr. Brisketu Sharan Pandey
For the Respondent/s	:	Mr. Sanjay Kumar Ojha, AC to GP-7

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 19-11-2016

Heard learned counsels for the parties.

Annexure-2, dated 22.06.2013 is under challenge, which is order of punishment. The review application filed against the said order also has been rejected by virtue of Annexure – 1, dated 25.02.2014.

The only legal question which is required to be considered is the punishment of withholding of salary for the period of suspension of the petitioner.

Learned senior counsel seems to be correct in urging that this kind of punishment cannot be imposed in violation of Rule 97 of the Bihar Service Code. There was neither any opportunity nor show-cause was issued with regard to the contemplated punishment of such kind. The relevant decision is reported in 1988 PLJR 82 (Mahabir Prasad Versus The State of Bihar) and 2003 (4) PLJR 68 (Pramod Kumar Versus Champaran Kshetriya Bank).

Keeping in mind the ratio of the two decisions, the punishment of withholding of salary for the period of suspension is quashed. Matter is remanded back, however, with a direction upon the competent authority that a show-cause would be required to be issued to the petitioner and the requirement in terms of the two decisions with regard to Rule 97 has to be followed before any order of such kind can be passed.

Writ application is allowed to the extent indicated above.
Rest of the punishment does not deserve to be entertained.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	21.11.2016
Transmission Date	