

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11686 of 2015

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Anil Kumar Sinha son of Late Krishna Bihari Sinha resident of Mohalla Professor Colony, K.G. Road, P.S. Nawada (Ara), District- Bhojpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Planning and Development Bihar, Patna
3. The Director, Directorate of Economics and Statics, Department of Planning and Deployment, Bihar, Patna
4. The Joint Director (Administration), Directorate of Economics and Statistics, Department of Planning and Development, Bihar, Patna
5. The District Statistical Officer, Nalanda

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Digvijay Pratap Singh, Advocate
Mr. Sanjay Singh, Advocate

For the Respondent/s : Mr. RAM BALAK MAHTO, Advocate General
Mr. Prabhu Narayan Sharma, AC to A.G.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 17-09-2016

Heard Mr. Digvijay Pratap Singh, learned counsel for the petitioner and Mr. Prabhu Narayan Sharma, Assisting Counsel to Advocate General.

The petitioner has questioned the order of suspension bearing Memo No. 42 dated 14.1.2015 of the Joint Director (Administration) impugned at Annexure-1 to the writ petition.

The petitioner was arrested by the Vigilance sleuth while during the act of taking bribe leading to the institution of criminal case under the provisions of the Prevention of Corruption Act, 1988 as also a disciplinary proceeding was initiated under the Bihar

Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as the 'Rules'). It is for this reason that the petitioner was arrested, put under suspension and continues to be in such position.

Counter affidavits have been filed on behalf of the respondents which are on record.

Mr. Singh, learned counsel for the petitioner informs that while the criminal case is yet pending adjudication before the State, disciplinary proceedings have concluded and final orders are now to be passed by the disciplinary authority. He also submits that the order of suspension dated 14.1.2015 is in exercise of power vested under Rule 10 of the Rules but the stipulations thereunder has not been followed by the respondents inasmuch as the petitioner yet continues to draw only 50 per cent of the subsistence allowance when Rule 10(i) enables the concerned authority to enhance a subsistence allowance on expiry of 12 months of suspension by a suitable amount not exceeding 50 per cent of the subsistence allowance. According to learned counsel, the petitioner continues to draw subsistence allowance as provided under Rule 10 (i) i.e. 50 per cent of the pay but the relief provided under Rule 10(i) has not been provided to the petitioner even after expiry of 20 months of the suspension order dated 14.1.2015.

Having heard learned counsel for the parties and

considering that the disciplinary proceeding so initiated against the petitioner is practically at its conclusion, I find no reason to interfere with the order of suspension dated 14.1.2015 impugned at Annexure-1 save and except that the disciplinary authority would be well advised to dispose of the disciplinary proceeding by passing a final order in accordance with law expeditiously and since as informed by Mr. Singh, learned counsel for the petitioner even the reply to a second show cause has been filed by the petitioner, let the final order be passed within four weeks from today by the disciplinary authority.

The directions aforementioned would govern the disciplinary proceedings. Insofar as the payment of subsistence allowance is concerned, the disciplinary authority would be well advised to consider the grievance of the petitioner for payment of enhanced subsistence allowance from the date it is found admissible to him in terms of Rule 10(i) of ‘the Rules’ and dispose of the same within a period of four weeks from the date of receipt / production of a copy of this order.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

S.Sb/-

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