

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12451 of 2011

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Madan Tiwary son of Late Dibandhu Tiwary A/P Head Clerk, Sub-Divisional Office, Birpur, P.S.-Birpur, District -Supaul.

.... Petitioner/s

Versus

1. The State Of Bihar.
2. The District Magistrate-Cum-Election Officer Supaul, P.S. And District - Supaul.
3. The Sub-Divisional Officer, Birpur At Supaul.
4. The Block Development Officer, Basantpur, Block, P.S.-Birpur, District - Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Mukund

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

3 02-03-2016 Heard Sri Anil Kumar Mukund, learned counsel for the petitioner and learned AC to Standing Counsel No. 14.

The petitioner invoking writ jurisdiction of this court under Article 226 of the Constitution of India has made a limited prayer for directing the respondents to pay full salary and allowances during the period in which the petitioner remained under suspension.

It is the case of the petitioner that the petitioner on certain charges was proceeded departmentally and he was put under suspension by order dated 23.4.2009. The petitioner at the relevant time was posted as Head Clerk in the Sub Divisional Office, Birpur, Supaul Collectorate. The petitioner finally in the

departmental proceeding was exonerated and departmental proceeding had come to an end by an order contained in Memo No. 684-2/Establishment, Supaul dated 5.11.2009 issued under the signature of District Collector, Supaul. By the said order the suspension order was also directed to be revoked.

Learned counsel for the petitioner submits that despite the fact that the petitioner was exonerated from the departmental proceeding and his suspension order was also revoked the petitioner has not been paid anything save and except subsistence allowance during the period of suspension. Thereafter petitioner filed a representation before the District Collector, Supaul, however no decision has been taken till date.

In this case a counter affidavit has been filed on behalf of the respondents but no plausible explanation has been given regarding non payment of salary and allowances for the period of suspension, even after the petitioner was completely exonerated from the departmental proceeding.

Besides hearing learned counsel for the parties I have also perused the material on record. On going through the Annexure – '1' to the writ petition i.e. an order whereby departmental proceeding of the petitioner was directed to be terminated in view of the report submitted by the conducting

officer showing the petitioner as innocent, by the said order the suspension order was also directed to be revoked. Once the petitioner was exonerated from the departmental proceeding with no other condition certainly the petitioner is entitled to get all the benefits during the period when the petitioner remained under suspension. Accordingly the writ petition stands allowed with a direction to the respondents to pay all the benefits i.e. salary and other allowances to the petitioner for the period during which he remained under suspension i.e. from 23.4.2009 to 5.11.2009 after adjusting the subsistence allowance which was paid to the petitioner. Entire payment must be made to the petitioner within a period of four weeks from the date of receipt / production of a copy of this order failing which the respondents shall pay interest at the rate of 9% per annum on the entire amount which shall be calculated from 5.11.2009 i.e. the order of exoneration of the petitioner by the District Collector. The interest amount shall be recovered from the pocket of employee / officer responsible in not implementing the order of this court within time.

(Rakesh Kumar, J)

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