

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20652 of 2013

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Smt. Kanti Devi Wife of Late Bhanu Pratap Singh correspondence Clerk at
Divisional Forest Officer, Jai Prakash Nagar, Karma Road, Aurangabad
(Bihar).

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary
2. The Chief Principal, Conservator of Forest, Bishwasaraiya Bhawan, New
Secretariat, Patna.
3. The Regional Conservation of Forest, Patna
4. The Conservator of Forest, Gaya
5. The Divisional Forest Officer, Aurangabad
6. Mr. Vinod Kr. Singh, Ex-Establishment Assistant in Conservator of
Forest Office, Gaya, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akhilesh Kumar Sinha

For the Respondent/s : Mr. Sanjay Kumar, AC to AAG

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 06-04-2016 Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, the petitioner was appointed on
compassionate ground as a Correspondence Clerk in the office of
D.F.O, Aurangabad, but she was sent on deputation to Gaya
Division. Later on, vide letter dated 23.08.2012, the deputation of
the petitioner was cancelled and was directed to join the present
place of posting was relieved from the duty on 25.08.2012. The
Office Superintendent, vide office order dated 25.08.2012,
directed for deduction of salary of three days and payment of

salary of rest period, but even after being relieved from deputation place the petitioner did not join the duty on the ground that she was suffering from Jaundice and remained absent from duty for seventy(70) days.

The petitioner applied for the leave for the period 25.08.2012 to 30.09.2012 and later on, again she had filed the application for extension of leave on the ground of her sudden illness. Lastly she has joined the service on 31.10.2012. She applied for the medical leave/earned leave, but the authority considering the gravity of misconduct of the petitioner, has granted the extra ordinary leave, exempting the disciplinary action showing the compassion towards the petitioner.

The counsel for the petitioner submits that as already earned leave of the petitioner was standing in her credit and she had also made request for the earn leave, her leave should be adjusted against the earn leave, but the authority concerned had illegally granted the extra ordinary leave which is only applicable when no leave is available to the government employee.

The counsel for the State submits that the petitioner has disobeyed the order of the competent authority, even after the repeated direction, she did not join the duty at Aurangabad Office, but for 70 days she remained absent from the duty without

showing any justifiable reason.

Having considered the rival contentions of the parties, it is a fact that though the petitioner was relieved from the service but she remained absent for 70 days from the duty. Ground has been taken that she was suffering from Jaundice to substantiate she attached the prescription of the Doctor showing that she was put to the medical examination. When the earned leave was standing in the credit of the petitioner and she made a request in such a situation she should have been granted the earned leave but without giving any reason she was granted extraordinary leave, this Court feels that the action of the respondent is not justifiable. This Court directs that 70 days leave, which is standing to the credit of the petitioner in as much as she had also made a request for leave, should be adjusted against the earned leave.

With the above observation/direction, this petition is allowed.

(Shivaji Pandey, J)

siddharth/Mahesh/-

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