

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12096 of 2008

=====

Ashok Kumar, son of Late Raghubanshi Verma, Sub Inspector of Police,
C.I.D. Crime Branch, Patna, Bihar, resident of Mohalla-Old Jakkanpur,
P.S. Jakkanpur, District- Patna

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Secretary, Bihar, Home(Police) Department, Govt. of Bihar
3. The Deputy Secretary, Home(Police) Department, Govt. of Bihar, Old Secretariat, Patna
4. The Under Secretary, Home(Police) Department, Govt. of Bihar, Old Secretariat, Patna
5. The Director General-cum- Inspector General of Police, Bihar, Old Secretariat, Patna
6. Deputy Inspector General, CID, Bihar, Patna

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Nirmal Kumar Sinha 3
Mr. Arun Kumar
Mr. Nawal Kishore Prasad

For the Respondent/s : Mr. AC to AAG-7

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 07-03-2017 Heard Sri Nirmal Kumar Sinha, learned counsel for
the petitioner and learned AC to AAG-7.

The petitioner, invoking writ jurisdiction of this Court under Article-226 of the Constitution of India, has made a prayer for directing the Respondents for making payment of his salary with interest for the period in between 31.10.1991 and 31.10.1996 after quashing Memo No.3287 dated 27.03.2000(Annexure-11 to the present writ petition). By the said order, the order of the compulsory retirement of the petitioner was recalled



and he was reinstated. However, while passing the order of reinstatement, it was indicated that the period, during which the petitioner remained absent from service, was to be treated as the period 'leave without pay'. The said order was passed in the year 2000.

It is evident from the record that the petitioner, while posted as S.I. of Police, was made an accused for the offence under Section 3A of R.P.F.(U.P) Act, in which the petitioner was put on trial. However, subsequently, he was acquitted. Besides criminal proceeding, the petitioner was also departmentally proceeded and in the departmental proceeding after conclusion, the petitioner was directed to be compulsorily retired. The said order was challenged by the petitioner before the Government and vide Annuxure-11 of the present petition, the petitioner was reinstated, but the period of absence was directed to be treated as the period of 'leave without pay'. Though, while reinstating, the petitioner was debarred from getting any salary for the period of absence, the petitioner after joining again filed a representation claiming salary for the said period. Thereafter, the petitioner filed a writ petition vide C.W.J.C.No.5106 of 2000. A Bench of this Court vide its order dated 21.10.2005 dismissed the writ petition, which was assailed by the petitioner before the



Division Bench vide L.P.A. No.1348 of 2005. However, the said L.P.A. was also dismissed on 24.01.2007. Subsequently, the petitioner filed an appeal before the Hon'ble Apex Court vide Civil Appeal No.3243 of 2008 and vide order dated 2nd May,2008, the appeal preferred by the petitioner was allowed primarily on the ground that the writ petition as well as L.P.A. was rejected primarily on the ground of limitation. While allowing the appeal i.e. Civil Appeal No. 3243 of 2008, the Hon'ble Apex Court restored the writ petition and requested the High Court to decide the writ petition on merit in accordance with law.

After noticing the fact that earlier the claim of the petitioner was dealt with by this Court and finally by order of the Apex Court, the earlier writ petition i.e. C.W.J.C.No.5106 of 2000 was directed to be restored, this Court directed to place the present case along with C.W.J.C.No.5106 of 2000, which has been received and kept on record. On perusal of the record of C.W.J.C.No.5106 of 2000, it is evident that in compliance with the order of the Hon'ble Supreme Court, the said writ petition was restored and, thereafter, the present writ petition was filed by the petitioner on 31.08.2008. However, the original writ petition i.e. C.W.J.C.No.5106 of 2000, on 14.08.2008 stood dismissed due to non-prosecution.



In view of the fact that the main writ petition, which was earlier dismissed and finally in compliance with the order of the Apex Court, it was restored to its original file, there was no reason for the petitioner to file a separate writ petition i.e. the present writ petition and, as such, in view of the fact and circumstances, there is no reason to pass any fresh order in the present writ petition.

The writ petition stands dismissed.

(Rakesh Kumar, J)

NKS/-

U			
---	--	--	--

