

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15408 of 2008

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Shri Ram Lakhan Choudhary, son of Late Ram Keshwar Chaudhary resident of village Khapua , P.O. Khapua, P.S. Nagarnausa, District Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. Principal Chief Conservator of Forest, Bihar, Patna
3. Principal Secretary, Environment & Forest Department, Patna, Bihar
4. Chief Conservator (Development) Patna, Bihar
5. The Working Planning Officer, Patna, Bihar
6. Shri Arbind Kumar, the Working Planning Officer, Patna, Bihar
7. Shri Radha Kant Kumar, Assistant Conservator of Forest Department, Patna, Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Behzad Akhtar

For the Respondent/s : AC to GA – 12

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 02-03-2017

Heard Mr. Behzad Akhtar, learned counsel for the petitioner and learned AC to GA No. 12.

It is a peculiar case in which the petitioner has invoked writ jurisdiction of this Court under Article 226 of the Constitution of India, only for the purposes of directing the respondents to pay his two months salary i.e. for the months of November, 2006 and December, 2006.



The petitioner, at the relevant time was functioning as Forester. However, without any rhyme and reason he was not paid his salary for the aforesaid two months. Thereafter, the petitioner approached this Court by filing the present writ petition which was filed in the month of October, 2008. During pendency of this petition the petitioner was inflicted punishment vide order dated 2.2.2009 by which the said period of two months was treated as extra -ordinary leave period without pay. Thereafter, the petitioner filed an interlocutory application vide I.A. No. 1140 of 2009 wherein the petitioner sought permission to assail the order dated 2.2.2009, which was brought on record as Annexure '9' to the interlocutory application. In view of the facts and circumstances vide order dated 21.09.2015 the interlocutory application was directed to be treated as part of the writ petition. Meaning thereby, that petitioner was allowed to assail the order of the so- called punishment. It was primarily argued by learned counsel for the petitioner that punishment which has been inflicted on petitioner was imposed without following any procedure. He has argued that even the punishment which has been imposed does not find place in Rule 14 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as "C.C.A. Rules, 2005"). He submits that the punishment which has been imposed is neither defined as minor or



major punishment. By way of referring to an order dated 25.07.2011 passed in CWJC No. 5684 of 2009 (Uday Narain Shukla Versus The State of Bihar & Ors.) , which has been brought on record by way of filing supplementary affidavit, learned counsel for the petitioner submits that in identical matter a Bench of this Court had considered that there was no such punishment in the C.C.A. Rules, 2005 and allowed the writ petition and directed for payment of arrear of salary within a maximum period of three months. It has been argued by learned counsel for the petitioner that the case of the petitioner stands on similar footing as the case of Uday Narain Shukla (Supra).

Learned AC to GA No. 12 was not in a position to distinguish the case of the petitioner with the case of Uday Narain Shukla.

In view of the facts and circumstances particularly the fact that without any procedure such punishment was passed and the fact that in identical issue one another writ petition was allowed by this Court vide its order dated 25.07.2011 in CWJC No. 5684 of 2009 (Uday Narain Shukla Versus The State of Bihar & Ors.) there is no reason to pass a different order. Accordingly, the present writ petition stands allowed. The order impugned is hereby set aside with a direction to the respondents to pay the claim salary i.e. salary for the months of November 2006 & December 2006 to the petitioner. The



said amount must be paid to the petitioner within a period of two months from the date of receipt / production of a copy of this order failing which, the petitioner shall be entitled to claim interest at the rate of 6% per annum from the date since when his salary was stopped.

The writ petition stands allowed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07-03-2017
Transmission Date	NA

