

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7656 of 2017

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1. Upendra Kumar Ojha, son of Late Raghunath Ojha, resident of village- Tiwari Matihinia, P.O.- Sipaya, P.S.- Bishanbhapur, District- Gopalganj. At present Block Agriculture Officer (Suspended), Chiraiya Block, District - East Champaran attached in the Head quarter of the Office of Joint Director of Agriculture, Bhagalpur, Division. Petitioner/s

Versus

1. The State of Bihar, through Secretary, Department of Agriculture, Bihar, Patna.
 2. The Joint Secretary, Department of Agriculture, Old Secretariat, Patna Bihar.
 3. The Director, Department of Agriculture, Bihar Patna.
 4. The Joint Director of Agriculture, Koshi Division, Saharsa.
 5. The Joint Director of Agriculture (PAAT), Purina cum Inquiry Officer, District- Purnia.
 6. The Joint Director of Agriculture, Bhagalpur Division, Bhagalpur.
 7. The District Agriculture Officer, Supaul, District- Supaul.
 8. The Sub Divisional Agriculture Officer, Birpur, District- Supaul.
 9. The Sub Divisional Officer, Nirmali, District- Supaul.
 10. The Block Development Officer, Marouna Block, District- Supaul.
 11. The Project Executive Officer, Marouna, District- Supaul. Respondent/s
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Appearance :

For the Petitioner/s : Mr. Ganesh Prasad Singh
For the Respondent/s : Mrs. Alka Verma, advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT
Date: 05-09-2017

Heard both sides.

The petitioner has filed this writ petition for revocation of his suspension and payment of salary and other allowance during the period of suspension.

Firstly, vide order dated 20.04.2013 (Annexure-3) the salary of petitioner was stopped on account of some negligence on his part and he was directed to join at block Chiraiya in the district of East Champaran but again the petitioner was put under suspension vide order dated 10.03.2015, as contained in memo No.89, issued under the signature of Director, Agriculture, Bihar, Patna.

The learned counsel for the petitioner submits that till date even charge has not yet been framed against the petitioner and petitioner is not being paid his salary since 20.04.2013. Even subsistence allowance is not being paid after issuance of order of suspension dated 10.03.2015 and non payment of



subsistence allowance is unexplainable on the part of the respondents. Sub rule 7 of Rule 9 of the Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 says that charge sheet must be framed within three months from the date of issue of suspension order and if charge is not framed on account of unavoidable circumstances the disciplinary authority must extend the period of framing of charge for four months but after lapse of four months the suspension order shall have to be revoked but it appears from the orders as contained in Annexure-11 and Annexure-3 that salary of the petitioner was stopped with effect from 20.04.2013 and thereafter he was suspended on 10.03.2015 but since then the petitioner was not being paid subsistence allowance and no charge was framed within the stipulated period, as mandated under sub Rule 7 of Rule 9 of the Bihar C.C.A. Rules, 2005. The respondents-authorities, for such inaction on their part, are either appears to be ignorant of the law and the Rules framed by the State of Bihar or for the reasons best known to them have failed to file a detailed counter affidavit, although a sketchy counter affidavit is on record explaining the circumstances under which charge has not been framed and no subsistence allowance is paid to the petitioner.

Considering the facts aforesaid, this writ petition is disposed of with a direction to the Director, Department of Agriculture, Bihar, Patna, respondent No.3, to pass appropriate order or revoke the suspension of the petitioner within two months from the date of receipt of this order.

(Prabhat Kumar Jha, J)

BKS/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	11.09.2017
Transmission Date	N.A.

