

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3946 of 2017

Jagat Paswan, son of Late Bankey Paswan, Resident of Hafizpur Karmour,
P.O.- Goswa Seikhpura, P.S.- Pandarak, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Bihar Building Construction Department, Bihar, Patna.
2. The Engineer in-Chief-cum Additional Commissioner-cum-Special Secretary, Bihar Building Construction Department, Bihar, Patna.
3. The Additional Secretary, Bihar Building Construction Department, Bihar, Patna.
4. The Chief Engineer (PATNA), Bihar Building Construction Department, Bihar, Patna.
5. The Superintending Engineer, South Bihar Circle, Bihar Building Construction Department, Bihar, Patna.
6. The Executive Engineer, Patna Building Division, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Y.V.Giri, Sr. Advocate
with Mr. Dilip Kumar Tondon
For the Respondent/s : Mr. RAJ BALABH PD.YADAV-AAG11

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 14-09-2017 Heard learned counsel for the parties.

The petitioner stands suspended by the impugned order, dated 07.12.2016, issued by the Building Construction Department, Government of Bihar on the allegation of irregularities committed by him, while posted as Executive Engineer, Building Division, Patna.

A departmental proceeding has already been initiated



against him with the issuance of charge-sheet.

The other grievance, which the petitioner has is that he is not being paid his subsistence allowance during the period he remained under suspension.

Mr. Y. V. Gir, learned Senior Counsel appearing on behalf of the petitioner, assailing the impugned order, has submitted that the order of suspension has been passed as a matter of course without considering whether such suspension was at all desirable or not. He has further submitted that the petitioner, before the order of suspension was passed, was already transferred to Gaya and, therefore, there was no necessity of the petitioner being put under suspension. He has also submitted that only allegation against the petitioner is of procedural irregularities in payment of amount against work done by a Contractor.

So far as the order of suspension is concerned, I do not find any illegality requiring interference by this Court at this stage. The allegations made against the petitioner in the order of suspension do make out misconduct. Power to suspend emanates from Rule 9 (1) (a) of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 during pendency of disciplinary proceeding. The said order does not



require interference.

So far as the second submission made on behalf of the petitioner that he is not getting his subsistence allowance till the period of suspension is concerned, I find it to be genuine. If an employer has jurisdiction and power to put his employee under suspension, he has been corresponding legal obligation to ensure that subsistence allowance admissible under the statutes are paid to him. Non-payment of subsistence allowance during the period of suspension on the ground of pendency of the departmental proceeding amounts to violation of principles of natural justice since the employee may not be able to pursue his case in the departmental proceeding effectively.

I, accordingly, direct the Principal Secretary, Bihar Building Construction Department, Govt. of Bihar, Patna to ensure that the petitioner is paid his entire substance allowance, if not already paid, within a fortnight from the date of receipt/production of a copy of this order.

As regards disciplinary proceeding, learned Additional Advocate General No.11 appearing on behalf of the State submits that the same shall be concluded within the reasonable time. I direct the respondents to ensure that the departmental proceeding is concluded within the period of four months from



the date of receipt/production of a copy of this order.

This application stands disposed of accordingly.

(Chakradhari Sharan Singh, J)

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