

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.3823 of 2016

IN

LPA 691 of 2016

=====

Sant Om Prakash, son of late Sadho Prasad, resident of Village- Bela Bakaur,
P.S. Islampur, District- Nalanda.

.... Petitioner

Versus

1. The State of Bihar through N. Vijayalakshmi, Secretary, Animal and Fisheries Resource Department, Patna.
2. N. Vijayalakshmi, Secretary, Animal and Fisheries Resource Department, Patna.
3. Radhe Shyam Shah, the Director, Dairy Development Directorate, Patna.
4. Naresh Kumar Mishra, District Dairy Development Officer, Madhubani.

.... Opposite Parties.

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Appearance :

For the Petitioner : Mr. Om Prakash Singh, Advocate.

For the Opposite Parties : Md. Khurshid Alam, AAG 12

Mr. Arun Kumar Bhagat, AC to AAG XII

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 06-03-2017

This MJC application has been filed by the petitioner for initiating a contempt proceeding against the opposite parties on the ground that while partly allowing the intra-court appeal being LPA No. 691 of 2016 by judgment and order dated 09.08.2016, this Court directed, while affirming the order of the learned Single Judge setting aside the order of dismissal, that the petitioner would instead be deemed to be in continuing suspension during pendency of the departmental proceedings which had to be taken up again.

2. The petitioner's grievance is that notwithstanding the



aforesaid, he was entitled to subsistence allowance as a consequence of suspension during pendency of the departmental proceedings, but he has not been paid subsistence allowance.

3. A show cause has been filed today in which in paragraph-6, it is stated that up to October, 2016 (till the time when the contempt application was filed) subsistence allowance was paid but thereafter authorities have been directed to pay the subsistence allowance which will be paid. Thus, in our view, it tacitly stands admitted that subsistence allowance after October, 2016 has not been paid. This is what the petitioner complains.

4. Learned counsel for the petitioner points out that for the first time, the petitioner was put under suspension in the year 2014 from that date till the conclusion of the departmental proceedings also he was not paid subsistence allowance. Thus, in effect, except for a few months in the year 2016 he has not even been paid subsistence allowance since 2014 when as a consequence of his continuous detention he was put under suspension as in paragraph-6 of the show cause, State understands that the subsistence allowance in accordance with Rule-10 of the Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 requires to be paid.

5. We dispose of this MJC application with a direction to the State to ensure payments of the entire subsistence allowance from 2014 up to date, to the extent it has not already been paid,



within one month from today, the responsibility of which would be on the District Dairy Development Officer, Madhubani (Opposite Party No. 4).

6. With this direction, the MJC application stands disposed of.

(Navaniti Prasad Singh, J)

B.T/Ibrar

(Vikash Jain, J)

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