

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9537 of 2012

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1. Md.Safiquddin S/O Late Sheikh Liyaquat R/O Vill-Uzani, P.O.-Mania More,
P.S.-Naugachhiya, Distt-Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. Director General Of Police-Cum-Inspector General Of Police Bihar, Patna
3. Senior Superintendent Of Police North Of Gandhi Maidan, Patna
4. Senior Superintendent Of Police Katihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Manisha Singh

For the Respondent/s : Mr. Niraj Kumar, AC to GA 10

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 19-08-2017

Challenging the action of the respondents as contained in Annexure-6 dated 05.11.2007 to this writ petition, as far as it directs for confirming the period of suspension and non-grant of salary except the subsistence allowance already paid, the petitioner has filed this writ petition.

Facts in brief goes to show that on account of arrest of the petitioner and confining him to custody, a charge-sheet was issued to the petitioner. However, as a consequence in the criminal case, the suspension which was effected automatically due to his arrest in the criminal case by virtue of Rule-9 of the Bihar Civil Services (Classification, Control & Appeal) Rules was revoked and the impugned action was taken and that after



confirming the period of absence from 30.04.1994 to 24.03.1996, it is held that petitioner shall not be entitled to any wages on the principle of 'no work no wages'. The challenge is made to the order confirming the period of suspension and awarding the punishment of withholding of salary beyond the subsistence allowance is primarily on account of fact that this action taken by the competent authority under Rule 97(3) of the Bihar Service Code and that has been done without notice to the petitioner and without hearing him is illegal in view of the law laid down by this Court in the case of **Chakradhar Das vs. State of Bihar [2007 (3) PLJR 835]**. Admittedly, the petitioner was taken into custody, faced the criminal case and during the pendency of the matter he was in custody and remained absent because of the same. The petitioner was deemed to have been suspended once he was taken into custody and thereafter on his acquittal in the criminal case no further departmental action was taken and he was reinstated but for the period of absence was treated as the period to be on the principle of 'no work no wages. However, by doing so, action has been taken for confirming the period of suspension and directing that for the period of suspension no salary shall be paid to him. While in exercising the power by the authority under Rule 93(7) of the



Bihar Service Code, the requirement of law as laid down in the case of **Chakradhar Das** (supra) has not been followed, wherein the law laid down is that for denying the full salary to an employee like the petitioner who is under suspension, in exercise of Rule 97(3) of the Code, a show-cause notice on the charge framed to be issued and this having not been followed, the impugned action suffers from illegality and is unsustainable and is to be quashed.

The direction contained in Annexure-6 confirming the period of suspension of the petitioner and denying him the benefit of full salary beyond the subsistence allowance stands quashed.

The writ petition stands allowed and disposed of.

(Rajendra Menon, CJ)

mrl./-

AFR/NAFR	NAFR
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