

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3949 of 2009

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Siyawar Pd.Singh

.... Petitioner/s

Versus

Patna Municipal Corpn.& Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy
Mr. Vijay Kr.Singh

For the Respondent/s : Mr. Bishwa Bibhuti Kr.Singh
Mr. Ajay Behari Sinha

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 09-02-2017 Heard the learned counsel for the petitioner. Nobody appeared on behalf of the Patna Municipal Corporation.

2. The petitioner seeks quashing of order, as contained in Memo No. 1653 dated 02.08.2008 (Annexure-1), by which the Additional Municipal Commissioner, Establishment withheld two increments with non-cumulative effect and did not pass any order regarding the payment during the suspension period.

3. The relevant facts for disposal of this writ petition are that the petitioner was working on the post of Assistant in the Establishment Section of Patna Municipal Corporation. The petitioner was suspended, vide order dated 12.03.2008 as contained in Memo No. 531/Estt., for disobedience of the order of the Municipal Commissioner. The petitioner was asked to submit show-cause. The petitioner filed his show-cause but thereafter without holding departmental proceeding Annexure-1 was issued on 02.08.2008 withholding two increments of



the petitioner.

4. Learned counsel for the petitioner submits that of course, the punishment appears to be of minor nature, but no departmental enquiry was held. Even the payment during the suspension period of the petitioner was not made and the petitioner was not given any consequential benefit of Assured Career Progression.

5. On perusal of the record, I find that the Additional Municipal Commissioner without holding any departmental enquiry withheld two increments of the petitioner with non-cumulative effect, and at the same time did not pass any order with regard to payment of salary and other allowances during the suspension period. The order appears to be violative of principle of natural justice as no departmental enquiry was held, not the petitioner was found guilty.

6. Accordingly, in my considered view, the order is not sustainable and thus, Annexure-1 is set aside. The matter is remitted to the Municipal Commissioner to proceed in accordance with law and pass order within three months from the date of receipt of this order.

7. Accordingly, this Writ Petition is allowed.

(Prabhat Kumar Jha, J.)

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