

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1060 of 2015

In
Civil Writ Jurisdiction Case No.4860 of 2015

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Ram Pravesh Singh, Son of Mahavir Singh, Resident of Village- Divaka P.S.
Dumariya, District- Gaya.

... .. Petitioner-Appellant/s

Versus

1. The State of Bihar through the Principal Secretary Gram Panchayat Raj, Govt. of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The D.M. Cum-Collector, Gaya.
4. The District Panchayat Raj Officer, Gaya.
5. The Sub- Divisional Officer, Neem Chak Bathani, P.S. Neem Chak, Bathani District- Gaya.
6. The B.D.O. Khizer Sarai P.S. Khizer Sarai Distt. Gaya.
7. The B.D.O. Gurua Gaya District- Gaya.

... .. Respondents- Respondent/s

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Appearance :

For the Appellant/s :

For the Respondent/s : Mr. Partha Sarthi- GA 11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-09-2017

The petitioner was suspended and during the period of suspension, a charge-sheet was issued to him and based on the enquiry conducted punishment of stoppage of one increment without cumulative effect was imposed upon him on 30th April, 2011. He challenged the said imposition of punishment after his appeal was dismissed in the year 2015 and the learned Writ Court on 31.03.2015 dismissed the writ petition with the following observations:-



“Writ application is dismissed.

2. No relief is required to be granted as the punishment order has lost its meaning now, which was passed way back in the year 2011 which was withholding one increment without cumulative effect.

3. There was inordinate delay on the part of the petitioner to assail such decision in appeal, which has been rightly rejected even by the appellate authority. This order too does not warrant interference.”

Even though, the learned Writ Court may be right in holding that the effect of withholding of one increment without cumulative effect imposed in the year 2011 has lost of its significance and now there is no substantial loss to the petitioner, but while doing so, the learned Writ Court completely lost sight of the fact that before imposing aforesaid punishment, the petitioner was kept under suspension from 02.06.2008 up to the date of imposition of punishment, i.e. 30th April, 2011. For this period of approximately three years, he was only paid subsistence allowance and before taking action, the requirement of Section 97(2) read with rule 97(3) of the Bihar Service Code was not taken note of and in the matter of denying him full salary for the period of suspension, no show cause notice was issued and he was not heard and the requirement of law as laid down in the case of **Pramod Kumar**



Vs. The Chairman Kshetriya Gramin Bank & Ors., [2003(4) PLJR 68] was not taken note of.

That being so, to that effect, i.e. with regard to confirming for the period of suspension between 02.06.2008 to 30th April, 2011, requirement of law of issuing notice to the petitioner and granting him an opportunity has not been granted.

Accordingly, we allow this appeal in part, quash the order confirming the period of suspension and treating to be a suspension without payment of full salary and grant opportunity to the State Government, if so advised, to take action in accordance to the provision of Section 97(2) and 97(3) of the Bihar Service Code.

The appeal stands allowed to the extent indicated hereinabove.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.09.2017
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