

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16666 of 2012

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Shwetamber Jha S/O Late Ram Narayan Jha R/O Village- Harari, P.O.- Harari,
P.S.- Andharathari, District- Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Darbhanga
3. The Collector-Cum-District Magistrate, Madhubani, District- Madhubani
4. The Dy. Collector, Establishment, Madhubani
5. The Circle Officer, Khajauli, District- Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prakash Srivastava. Ms. Anu
Priyadarshini, Mr.Santosh Bharti,
Mr.Narain Anand

For the Respondent/s : Mr. S P Singh, GA 3

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 06-09-2017

Challenge in this writ petition is made to an order dated 04.01.2012 passed by the disciplinary authority and the order passed by the appellate authority, whereby, contrary to the law laid down by Division Benches of this Court in the case of **Sidheshwar Prasad Singh vs. State of Bihar [2001 (1) PLJR 70]** and **Chandrika Mochi vs. State of Bihar [2000 (4) PLJR 136]**, action taken for confirming the period of suspension and denying salary for the period of suspension after exoneration in the departmental enquiry is found to be improper.

In the present case also, in the departmental enquiry



conducted initially the petitioner was punished by the disciplinary authority. The punishment was challenged in an appeal and the appellate authority exonerated the petitioner and directed for his reinstatement. When no orders were passed in the matter of regularizing the period of suspension at the instance of the petitioner, matter came up to this Court in CWJC No.4224 of 2008 and on 18.04.2011, a Bench directed the competent authority to pass orders after taking note of law laid down in the cases of **Sidheshwar Prasad Singh** (supra) and **Chandrika Mochi** (supra) as per the requirement of Section 97 of the Bihar Service Code, 1952 and pass appropriate order and the impugned action taken vide Annexure-5 dated 04.01.2012.

Neither the aforesaid order has been complied with nor the law laid down in the cases referred to above was followed. On the contrary, only because the petitioner was suspended the period has been regularized by treating it as a period for which no salary shall be paid. Once the employee is exonerated of the charge levelled in the charge-sheet and the punishment was quashed by the appellate authority, in view of the law laid down in the cases of **Sidheshwar Prasad Singh** (supra) and **Chandrika Mochi** (supra) a detailed order should have been passed by taking note of the aforesaid principles.



This having not been done, we allow the writ petition in part and direct the respondent authorities to pay to the petitioner the salary and the benefits in the light of the judgments in the case of **Sidheshwar Praad Singh** (supra) and **Chandrika Mochi** (supra).

With the aforesaid, this writ petition stands disposed of.

(Rajendra Menon, CJ)

mrl

AFR/NAFR	NAFR
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