

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2293 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 3313 of 2014**

=====

Pradip Kumar @ Pradip Ram, Son of Bhim Ram, Resident of Village- Sonhan, P.S-
Sonhan, District- Kaimur (Bhabhua)

.... Appellant/s

Versus

1. The State of Bihar.
2. Chief Secretary, Old Secretariat, Govt. of Bihar, Patna.
3. Principal Secretary, Home (Police), Department, Govt. of Bihar, Patna.
4. Director General of Police, Bihar, Patna.
5. Senior Superintendent of Police, Patna.
6. Superintendent of Police, Kaimur.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Pramod Kumar, Advocate

For the Respondent/s : Mr. S.K. Sharma, A.C. to AAG-3

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 03-08-2017

Having heard learned counsel for the parties, we find that once the learned Writ Court has come to the conclusion that the criminal case instituted against the appellant after his appointment would have no consequence in the appointment and has expressed an opinion by holding that there cannot be a better example of a case where a Disciplinary Authority has acted mechanically without application of mind in imposing the punishment and has set aside the punishment in the absence of there being exonerating circumstances warranting withholding of consequential benefit of salary. There was



no reason as to why 50 per cent of the salary payable to the appellant could be withheld and denying full benefit of salary for the intervening period when the illegal order of termination was passed. There should be cogent reason, material and justification available. In the present case, once the learned Writ Court has found that there was no justification on the part of the Disciplinary Authority in taking the impugned action and when it is found that there is no merit in the justification given by the department and finding the impugned order of termination to be wholly illegal, violative of principles of natural justice and unsustainable and having quashed it in the absence of there being circumstances or material available to show as to why the arrears of salary should be denied to the appellant. In denying full salary and granting only 50 per cent salary, in our considered view, the learned Writ Court has committed an error. Once the termination is found to be illegal and unsustainable, the normal consequence would be reinstatement with all consequential benefits of back wages until and unless circumstances were available to show that the back wages cannot be granted in full or by only part of the back wages is to be granted.

In the present case there being no circumstances of the nature as indicated hereinabove, and once the termination is found to be illegal, the employee was entitled to be reinstated with full back



wages and to that extent, the learned Writ Court has committed an error and we rectify the same by allowing this appeal, modifying the order dated 23.11.2016 passed by the learned Writ Court in C.W.J.C. No. 3313 of 2014 by directing for reinstatement of the appellant with full back wages.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	08.08.2017
Transmission Date	

