

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3651 of 2017

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Ashok Kumar, son of Late Ram Briksha Mahto, resident of Village- Mahuawa, P.O.- Damodarpur, P.S.- Pira, District- East Champaran, Motihari, at present posted as suspended constable of Excise, C/o Superintendent of Excise, Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Government of Bihar, Old Secretariat, Bihar, Patna.
2. The Principal Secretary, Department of Registration, Excise and Prohibition, Govt. of Bihar, New Secretariat, Bihar, Patna.
3. The Commissioner, Registration, Excise and Prohibition, Govt. of Bihar, New Secretariat, Bihar, Patna.
4. The Collector, Gopalganj.
5. The Superintendent of Excise, Gopalganj.
6. The Superintendent of Excise, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kaushalesh Choudhary
For the Respondent/s : Mr. ANIL KR. SINHA-GA1

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 12-09-2017 Heard learned counsel for the parties.

The petitioner in the present application is aggrieved by the action of the respondents, whereby they are treating him to be under suspension with effect from 23.08.2016.

The petitioner is an Excise Constable. It appears that a criminal case has been instituted in which the petitioner has also been made accused. A departmental proceeding has also been initiated against him.

Learned counsel appearing on behalf of the petitioner has submitted that no order of suspension has ever been served on



the petitioner. He has secondly been submitted that the matter has been inquired into by the District Magistrate, Gopalganj, who has found nothing against the petitioner though he has found allegation against other officials to be correct. He has submitted that the petitioner is not being paid his salary nor any subsistence allowance after the respondents are treating the petitioner to be under suspension.

Learned counsel for the petitioner submits that except oral communication that the petitioner has been put under suspension, no order has been served on him.

Let the District Magistrate consider the grievance of the petitioner. If no order of suspension has ever been served on the petitioner and the petitioner has been found continuously working, then there should be no reason why petitioner shall not be paid his salary. If the petitioner has been put under suspension with communication of any order of this nature on him, he would be still entitled for subsistence allowance.

So far as the plea on behalf of the petitioner that there is absolutely no material against him and he had been unnecessarily dragged, I direct the District Magistrate, Gopalganj to consider the case of the petitioner and ensure that, in case disciplinary proceeding has been initiated against him, it



is concluded within a reasonable time.

I must indicate that an employee of the State Government can be put under suspension either during or contemplation of a departmental proceeding or during the pendency of a criminal case. Let the District Magistrate, Gopalganj consider all these aspects and take appropriate decision in accordance with law within a period of two months from the date of receipt/production of a copy of this order.

This application stands disposed of accordingly.

(Chakradhari Sharan Singh, J)

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