

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14196 of 2016

=====

Anil Kumar Singh Son of Late Satya Narayan Singh, Junior Account Clerk- Cum
Cashier, Electric Supply Division, Bankipore (Now Under Suspension).

.... Petitioner/s

Versus

1. The South Bihar Power Distribution Company Limited through its Managing
Director, Vidyut Bhawan, Bailey Raod, Patna.
2. The Managing Director South Bihar Power Distribution Company Limited
Vidyut Bhawan, Bailey road, Patna
3. The Deputy Managing Director (Human Resources & Administration) South
Bihar Power Distribution Company Limitd Vidyut Bhawan Bailey Road, Patna
4. General Manager (Human Resources & Administration, South Bihar Power
District Company Limited, Vidyut Bhawan, Bailey road, Patna
5. The Electrical Executive Engineer, Electric Supply Division, Bankipore, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Yogendra Mishra, Adv.
Mr. Uma Kant Tiwary, Adv.
For the Respondent/s : Mr. Vinay Kirti Singh, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 18-08-2017

Heard Mr. Yogendra Mishra, learned counsel appearing on
behalf of the petitioner and Ms. Nivedita Nirvikar, learned counsel
appearing on behalf of the respondents.

In the nature of order this Court proposes to pass it would
not be required to delve into the merits of the case.

The writ petition has been filed questioning the order of
suspension bearing Memo No. 1076 dated 06.06.2015 issued under



the signature of the Electrical Executive Engineer and the issue raised in support of such prayer is that the departmental proceeding was initiated after service of charge on 09.06.2015 beyond 90 days period. Although the time lag between the order of suspension and the initiation of the departmental proceeding was sufficient for invoking the provision of Rule 9 (7) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the Rules') but unfortunately the petitioner neither moved the authorities concerned for revocation of the suspension nor challenged the same before this Court. The law is well settled in the full bench judgment of this Court rendered in the case of **The State of Bihar Vs. Gyan Kumar Ram reported in 2009 (4) PLJR 272** for invoking the relief as found in Rules 9 (7) of 'the Rules'. The petitioner having failed to do so and the disciplinary proceeding having been initiated by service of charge memo dated 09.06.2015 as admitted by Mr. Mishra, no such plea can be entertained.

The other issue raised by Mr. Mishra, is that the delinquent is not being paid subsistence allowance amount as per the statutory provisions of Rule 10 of 'the Rules'. The third submission made is in reference to the non-payment of salary to the petitioner for the period April and May 2015.

The arguments have been contested by Ms. Nivedita



Nirvikar who has appeared for the respondents to submit that the petitioner has not filed any representation before the respondents in terms of the Rules for revocation of suspension or for non payment of subsistence allowance in terms of 'the rules'. It is submitted that the even though subsistence allowance is being paid in terms of 'the rules' but should the petitioner file his representation before the respondent no. 4 raising his grievance, the same shall be considered and disposed of accordingly.

In so far as the status of the departmental proceeding is concerned, she submits that it is yet pending.

Having considered the rival submission of the parties and considering that the departmental proceeding is pending disposal, I deem it proper to dispose of the writ petition with direction to the disciplinary authority to ensure the conclusion of the disciplinary proceeding within a period of 4 months from the date of receipt/production of a copy of this order in accordance with law and after due opportunity of representation to the petitioner. In so far as the issue of subsistence allowance is concerned and non-payment of salary for the abovementioned period is concerned, the petitioner would be at liberty to represent before the respondent no. 4, together with supporting details and which shall be considered and be disposed of in accordance with law within the same period of four months.



It goes without saying that in case the disciplinary proceeding is not concluded within the period stipulated above for reasons not attributable to the petitioner, the respondents would consider his prayer for revocation of the suspension and dispose of the same within one week thereafter.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

Devendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	08.09.2017
Transmission Date	

