

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18256 of 2008

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Devendra Kumar Singh s/o Late Birendra Kumar Singh r/v- Isakchak, P.s. –
Isakchak, District - Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Secretary Co-operative Department, Bihar, Patna
3. Registrar, Co-operative, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. RAJIVE RANJAN SINGH, Adv.

For the Respondent/s : Mr. (SC7)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 08-02-2017

Heard both sides.

The petitioner seeks quashing of the order, as contained in Memo No. 3437 dated 11.06.2008 (Annexure-12) by which the Registrar Co-operative Societies Bihar, Patna ordered that during the period of 01.07.2005 to 28.02.2006 the petitioner was un-authorizedly absent and according to Rule 265 of the Bihar Service Code, he shall not be entitled to get salary and there shall be break in his service for that period.

The facts which are relevant for the disposal of this writ petition are as follows:-

The petitioner was posted as Clerk in the office of Assistant Registrar, Co-operative Societies, Bihar Sharif Anchal. Vide letter no. 123 dated 19.05.2005, the petitioner was allotted Bihar cadre



after re-organization of Jharkhand from the Bihar. The petitioner joined office of the Secretary, Co-operative Societies, Government of Bihar. The petitioner was transferred vide letter no. 2359 dated 14.06.2005 at Darbhanga, but the petitioner was suspended vide letter no. 956 dated 01.03.2006 and he was directed to join Headquarters at Muzaffarpur. Consequently, the petitioner joined at Muzaffarpur. A proceeding vide letter no. 1003 dated 03.03.2006 was initiated and show-cause notice was issued to the petitioner. The petitioner gave the show-cause. The petitioner joined vide letter as contained in Memo No. 5577 dated 07.10.2006 in the office of Registrar Co-operative Societies. Agreeing with the report of the Enquiry Officer, the Registrar revoked the suspension of the petitioner after giving him censor. The suspension period was also regularized and payment of salary was ordered to be made. The petitioner thereafter filed petition for payment of salary during the suspension period. The District Co-operative Officer also directed the Assistant Registrar vide order, as contained in Memo No. 174 dated 26.03.2008 to make payment of salary to the petitioner, but the Assistant Registrar Co-operative Societies, Bihar Sharif Anchal wrote a letter to the Registrar Co-operative Societies, Bihar, Patna seeking certain clarification about the payment of salary to the petitioner with regard to the period. The petitioner was found absent un-authorizedly and on such, the



Registrar Co-operative Societies, Bihar Patna vide order as contained in Memo No. 3437 dated 11.06.2008 passed order withholding the salary of the petitioner during the suspension period and the period during which the petitioner remained absent was treated to be a break in service.

Learned counsel for the petitioner submits that the petitioner was exonerated from all the charges and the Registrar Co-operative Societies vide order dated 07.10.2006 as contained in Memo No. 5577 ordered for payment of salary to the petitioner, but again the Registrar Co-operative Societies by the impugned order without giving notice to the petitioner, withheld the salary of the petitioner and also treated the period from 01.07.2005 to 28.02.2006 as break in service. The order is passed without hearing the petitioner. Therefore, the same is bad in law.

Learned counsel for the State however, could not be able to justify the order as contained in Annexure-12. From perusal of Annexure- 12, it appears that the Registrar Co-operative Societies has himself without hearing the petitioner changed the order earlier passed by him on the report of the Enquiry Officer on 07.10.2006, as contained in Memo No. 5577. Accordingly, the order, as contained in Memo No. 3437 dated 11.06.2008 (Annexure-12) is set aside.

The matter is remitted to the Registrar Co-operative



Societies, Bihar, Patna to pass order afresh in accordance with law, with regard to payment of salary to the petitioner after hearing the petitioner.

Accordingly, this writ petition is allowed.

(Prabhat Kumar Jha, J.)

Vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

