

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12144 of 2016

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Anup Kumar Sharma, son of late Lajdhari Sharma, resident of village Kiwal Basati
Gosai Tola, Police Station Lakisarai, District Lakhisarai.

.... Petitioner

Versus

1. The State of Bihar.
2. The Divisional Commissioner, Munger.
3. The Collector, Lakhisarai.
4. The Block Development Officer, Halsi, District Lakhisarai.

.... Respondents

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Appearance :

For the Petitioner/s : Ms. Mahasweta Chatterjee, Adv.

For the Respondent/s : Mr. Harish Kumar, GP-8

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 20-02-2017

Heard Ms. Mahasweta Chatterjee, learned counsel for the
petitioner and Mr. Harish Kumar, GP-8, for the State.

The petitioner prays for a direction to the respondent
authority to make payment of admissible subsistence allowance with
effect from 14.7.2012, which the date of dismissal.

Ms. Mahasweta Chatterjee, learned counsel for the
petitioner, has referred to a Bench decision of this Court, a copy of
which is placed at Annexure 5, to submit that the petitioner had
questioned his dismissal before this Court and the Bench in
consideration of the fact that no second show cause notice was served
on the petitioner remitted the matter for consideration. According to
the petitioner, the remand of the matter is a deemed reinstatement of



the petitioner and thus, he becomes entitled to subsistence allowance.

In my opinion, the relief prayed is misconceived because until such time that the delinquent is reinstated on his post, he is not entitled to any benefit as admissible to a Government servant. The order passed by the Bench present at Annexure 5 directs no such reinstatement. It is a different issue altogether whether or not in such a situation, any proceeding under the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the Rules') can be continued. However, since the said issue is not posed before this Court, I refrain to express any opinion thereon.

Suffice it to say that until such time the petitioner is reinstated on his post, he cannot be entitled to any subsistence allowance. Since the order relied upon by Ms. Chatterjee passed in C.W.J.C.No. 14005/2013 grants no such relief to the petitioner, no directions can be issued herein.

The writ petition is disposed of.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
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