

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3190 of 2017

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Krishna Kumar Sharma S/o Sri Navdeep Sharma, R/o Village-Mahmadpur,
P.S.-Tekari, Dist.-Gaya

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary Government of Bihar, Patna
2. principal Secretary, Health Department, Government of Bihar Patna.
3. Under Secretary, the Government, Health Department Government of Bihar Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Sharma
For the Respondent/s	:	Mr. PANKAJ KUMAR- SC12

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

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

The facts which are not in dispute are that the petitioner was at the relevant point of time, posted as Licensing Officer, Jehanabad and Arwal. On the allegation of misconduct, he was put under suspension, by an order, dated 10.05.2011, since he is said to have defied the Government order in connection with his appearance before the Court of Special Judge, Vigilance Bureau, Jharkhand at Ranchi in relation to some matter. Nearly eight months thereafter, on 18.01.2012, a departmental proceeding was initiated against him under Bihar Government Servant (Classification, Appeal and Control) Rules, 2005. It appears that there was some mistake while describing the name of the Conducting Officer. It took the Department further seven



months to issue a corrigendum by furnishing correct name of the Conducting Officer, i.e. in place of Dr. Yogeshwar Jha, Dr. Yantreshwar Jha, was to be read as Conducting Officer.

In the counter affidavit filed on behalf of the Respondents-State of Bihar, a plea has been taken that the petitioner did not cooperate in the departmental proceeding because of which the enquiry Officer was compelled to issue a press communique on 05.07.2013 to appear before the Inquiry Officer. It also appears that Inquiry Officer was informed that since the petitioner was in custody, it was not possible for him to participate in the enquiry proceeding. Evidently, the petitioner was an accused in a criminal case. He was subsequently released on bail and he submitted his joining on 12.09.2013 before the State Drug Controller, Bihar. The enquiry report was submitted on 11.07.2014. The Inquiry report, according to the State of Bihar, was thoroughly examined and it took one year and four months to consider the said enquiry report for the purpose of issuing second show cause notice to the petitioner. Second show cause notice was issued on 10.11.2015. The petitioner replied to the second show cause notice on 27.11.2015.

This is an admitted fact that till date no final order has been passed in the departmental proceeding. There is statement



in paragraph 18 of the counter affidavit to the effect that the departmental proceeding is still going on and is likely to attain its finality soon. It is not easy for the Court to comprehend as to for what purpose the departmental proceeding has been kept pending for so long, when the petitioner has already submitted his reply to the second show cause notice.

The petitioner is under suspension since 10.05.2011. This is a matter of serious concern where passing of an order by the disciplinary authority, after submission of second show cause reply is taking almost two years.

There is another grievance, which the petitioner has raised. It is his case that he has not been paid his subsistence allowance. The State does not dispute the fact that the subsistence allowance has not been paid. It has, however, been stated in the counter affidavit that the petitioner shall be paid subsistence allowance on the basis of the attendance, which the petitioner had marked during the period of suspension, of being at the Head Quarter fixed by the disciplinary authority.

While deprecating the action of the respondents for unnecessarily keeping the disciplinary matter pending, I direct the disciplinary authority to pass a final order within a period of two months from the date of receipt/production of a copy of this



order. In the background of the facts, which have been narrated above, I order that if no final order is passed within the aforesaid period of two months, the order of suspension shall automatically stand revoked.

So far the question of subsistence allowance is concerned, the petitioner has statutory right to receive the same. There is nothing in the counter affidavit to demonstrate that any effort has been made to find out petitioner's entitlement against the subsistence allowance. Let the admissible subsistence allowance be also paid to the petitioner within the aforesaid period of two months. f

This application is, accordingly, disposed of, with the directions and observations as above.

(Chakradhari Sharan Singh, J)

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