

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15405 of 2008

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Shri Gopal Kumar, S/o Shri Yashodhar Singh, resident of Paschim Vihar, East of
Gyan Niketan School, Ranjan Path, Bailey Road, P.S. Danapur, District Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Principal Secretary, Environment & Forest Department, Patna Bihar
3. Principal Chief Conservator of Forest, Bihar, Patna
4. Chief Conservator (Development) Patna, Bihar
5. The Working Planning Officer, Patna, Bihar Forest Deptt. Bihar Patna
6. Shri Arbind Kumar the Working Planning Officer, Patna, Bihar, Forest Deptt.
Bihar, Patna
7. Shri Radha Kant Kumar Assistant Conservator of Forest Department , Patna,
Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Behzad Akhtar

For the Respondent/s : AC to GA – 3

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 02-03-2017

Heard Mr. Behzad Akhtar, learned counsel for the
petitioner and learned AC to GA No. 3.

It is a peculiar case in which the petitioner has invoked writ
jurisdiction of this Court under Article 226 of the Constitution of
India, only for the purposes of directing the respondents to pay his
two months salary i.e. for the months of November, 2006 and
December, 2006.

The petitioner , at the relevant time was functioning as
Forester . However, without any rhyme and reason he was not paid
his salary for the aforesaid two months. Thereafter, the petitioner



approached this Court by filing the present writ petition, which was filed in the month of October, 2008. During pendency of this petition the petitioner was inflicted with punishment vide order dated 2.2.2009 by which the said period of two months was treated as extra-ordinary leave period without pay. Thereafter, petitioner filed an interlocutory application vide I.A. No. 1139 of 2009 wherein the petitioner sought permission to assail the order dated 2.2.2009, which was brought on record as Annexure '9' to the interlocutory application. In view of the facts and circumstances by order dated 21.9.2015 the interlocutory application was directed to be treated as part of the writ petition. Meaning thereby, that petitioner was allowed to assail the order of the so-called punishment. It was primarily argued by learned counsel for the petitioner that punishment which has been inflicted on petitioner was imposed without following any procedure. He has argued that even the punishment which has been imposed does not find place in Rule 14 of the Bihar Government Servants (Classification , Control and Appeal) Rules, 2005 (hereinafter referred to as "C.C.A. Rules , 2005"). He submits that the punishment which has been imposed is neither defined as minor or major punishment. By way of referring to an order dated 25.07.2011 passed in CWJC No. 5684 of 2009 (Uday Narain Shukla Versus The State of Bihar & Ors.) , which has been brought on record by way of



filing supplementary affidavit learned counsel for the petitioner submits that in identical matter a Bench of this Court had considered that there was no such punishment in the C.C.A. Rules, 2005 and allowed the writ petition and directed for payment of arrear of salary within a maximum period of three months. It has been argued by learned counsel for the petitioner that the case of petitioner stands on similar footing as the case of Uday Narain Shukla (Supra).

Learned AC to GA No. 3 was not in a position to distinguish the case of the petitioner with the case of Uday Narain Shukla (Supra).

In view of the facts and circumstances particularly the fact that without any procedure such punishment was passed and the fact that in identical issue one another writ petition was allowed by this Court vide its order dated 25.07.2011 in CWJC No. 5684 of 2009 (Uday Narain Shukla Versus The State of Bihar & Ors.) there is no reason to pass a different order. Accordingly, the present writ petition stands allowed. The order impugned is hereby set aside with a direction to the respondents to pay the claim salary i.e. salary for the months of November 2006 & December 2006 to the petitioner. The said amount must be made to the petitioner within a period of two months from the date of receipt / production of a copy of this order failing which, the petitioner shall be entitled to claim interest at the



rate of 6% per annum from the date since when his salary was stopped.

The writ petition stands allowed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07-03-2017
Transmission Date	NA

