

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15303 of 2008

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Lalan Kumar Das son of Late Rajendra Lal Das, resident of Mohalla – Kayasth Tola, Police Station – Saharsa, District – Saharsa.

.... Petitioner

Versus

1. The State of Bihar
2. Superintendent of Police, Kishanganj, District – Kishanganj.
3. Director General of Police, Govt. of Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Santosh Kumar Verma

For the Respondent/s : AC to SC - 4

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 27-03-2017

Heard Sri Santosh Kumar Verma, learned counsel for the petitioner and learned A.C. to Standing Counsel – 4.

2. The present writ petition was filed in the month of October, 2008, with a prayer to direct the respondents to pay arrears of salary to the petitioner for the period from 01-09-1994 to 08-05-1995.

3. A plea has been taken that by order dated 24-09-1994, the petitioner was put under-suspension, which was subsequently revoked by order dated 24-02-1995, thereafter, no specific order was passed as to whether the petitioner was entitled to get full salary after adjusting the subsistence allowance. In the petition itself, the petitioner has stated that on 24-02-1995, the suspension order of the petitioner was revoked, but without giving any detail, he is claiming salary for the period from 01-09-1994 to 08-05-1995, whereas, in the



counter affidavit filed on behalf of respondents, a plea has been taken that petitioner even during suspension period had not joined and petitioner remained absconding. In the counter affidavit, it has been elaborated that petitioner was put under-suspension due to the reason that in number of serious cases, the petitioner had not submitted chargesheet, despite direction of superior authorities. The suspension order was revoked, vide **Annexure – 2** to the writ petition, due to the reason that there was ensuing election and for that very purpose, it was revoked.

4. Learned counsel for the State tried to persuade the Court that while passing order of suspension, it was made clear that save and except subsistence allowance, the petitioner shall not be allowed for any other benefit or allowance.

5. Ofcourse, in the counter affidavit, it has not been disputed regarding revocation of the suspension, but in the counter affidavit, there is nothing to indicate that after suspension, the petitioner was inflicted any punishment or not. If the petitioner was put under-suspension, which was revoked subsequently without any subsequent punishment order, then certainly the petitioner was entitled to get full salary during the period of his suspension.

6. In the counter affidavit, the respondents/State has tried to justify the action against the petitioner and even certain period was



regularized, which has been done in the year 2015 i.e. after filing of the writ petition and some payment has also been made. However, there is nothing on record as to whether any punishment order was passed against the petitioner after his suspension.

7. Keeping in view the fact that since the petitioner was put under-suspension and suspension was revoked without inflicting any punishment order, certainly the petitioner is entitled to get full salary for the suspension period.

8. Accordingly, the writ petition is allowed, with a direction to pay the salary to the petitioner for the suspension period after deducting subsistence allowance as well as other payment, which has been made, in view of fact disclosed in the counter affidavit. All the formalities must be completed within a period of three months from the date of receipt/production of a copy of this order.

9. The writ petition is allowed.

(Rakesh Kumar, J.)

Anay

AFR/NAFR	NAFR
CAV DATE	N/A
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