

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1436 of 2014
IN
Civil Writ Jurisdiction Case No. 13336 of 2006**

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Dwarika Nath son of Late Uma Prasad resident of Mohalla - Ghugritand, Mali
Bagicha, Police Station - Police Line, District - Gaya.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Gaya.
4. The Deputy Collector, Establishment, Gaya.
5. The Deputy Collector, Land Reforms-cum-Conducting Officer, Gaya.
6. The Sub-Divisional Officer, Gaya.
7. The Circle Officer, Bodh Gaya, District - Gaya.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sunil Kumar Singh, Adv.
Mr. Nirmal Kumar Singh, Adv.
Mr. Ranvijay Singh, Adv.
Mr. Md. Azimuddin, Adv.

For the Respondent/s : Mr. Uma Shankar, Adv.
Mr. Muttatabuc Haque, Adv.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 07-02-2018

Writ application of the present appellant was dismissed
by the learned Single Judge on 12.09.2014 refusing to interfere
with the order of punishment of stoppage of four annual



increment with cumulative effect as well as a direction for non-payment of salary etc. for the period of suspension except the subsistence allowance.

Submission of the counsel representing the appellant is that so far as the second punishment of stoppage of salary for the period of suspension is concerned, since no separate proceeding or opportunity was given to the appellant, therefore, the said decision becomes vulnerable and is in the teeth of a Division Bench decision rendered in the case of **Dinesh Prasad Vs. The State of Bihar reported in 2006 (4) P.L.J.R. 514**. The Division Bench held that for imposing punishment of withholding of salary for the period of suspension, a proceeding under Rule 97 (3) of the Bihar Service Code is warranted. If it is not done then it would amount to violations of principles of natural justice. Similar view has been taken even recently in the case of **Md. Hanif Khan Vs. The State of Bihar reported in 2011 (2) P.L.J.R. 599**.

In view of the above and in absence of any rebuttal whether procedure under Rule 97 (3) of the Bihar Service Code has been adopted, the punishment of withholding of salary for the period of suspension is hereby quashed. L.P.A. is allowed limited to the extent indicated above.



The respondents are now directed to take steps for payment of salary for the period of suspension preferably within a period of three months from the date of receipt/production of a copy of this order.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Devendra/Arjun

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	08.02.2018
Transmission Date	NA

