

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15179 of 2010

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Niraj Kumar Rukhayar S/O Late Jamuna Prasad Ruknayar Presently Residing At
Flat No.122, Road No.2, Rajbanshi Nagar, P.S.Shastrri Nagar, Town And Distt-
Patna

.... Petitioner/s

Versus

1. The State of Bihar.
2. Member, Board of Revenue, State of Bihar, Patna
3. Secretary-cum-Commissioner, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna.
4. Deputy Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinay Raj, Adv.

For the Respondent/s : Mr. Anil Kumar Singh, GP-26

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 31-07-2018

The charges, which were framed against the petitioner by way of initiation of a departmental proceeding, have culminated into an order of punishment dated 09.10.2006, whereby and whereunder punishment of stoppage of one increment with cumulative effect was inflicted upon the petitioner herein. By the said punishment order dated 09.10.2006, it was further stated that the decision for the suspension period shall be taken after conclusion of the criminal proceedings. The appeal of the petitioner was also rejected on 07.06.2007. The said order of punishment dated 09.10.2006 and appellate order dated 07.06.2007 were challenged by the petitioner in



C.W.J.C. No.1005 of 2008 and this Court by an order dated 18.12.2009 has upheld the order of punishment dated 09.10.2006 and the appellate order dated 07.06.2007, however, the respondents were directed to take appropriate decision regarding the period of suspension de hors the pendency of the criminal proceedings.

2. The respondents had then issued show cause notice to the petitioner and after considering the same had issued an order dated 28.04.2010 whereby and whereunder it has been directed to deduct 20% of the salary of the petitioner for the period he remained under suspension. In the said order dated 28.04.2010 it has been further directed that the said order would be subject to the final outcome of the vigilance case.

3. The learned counsel for the petitioner has submitted that the impugned order dated 28.04.2010 would show that there is total non- consideration of the show cause reply filed by the petitioner herein.

4. I have heard the learned for the petitioner and perused the materials on record and I find that once the guilt of the petitioner has been established and the order of punishment has been upheld by this Hon'ble Court, no further deliberation is required on the subject matter and, therefore, there is no infirmity in the impugned order dated 28.04.2010 wherein the respondents have directed to withhold



20% of the salary payable to the petitioner for the period of suspension on the ground of proved misconduct. However, I find that the condition mentioned in the said order dated 28.04.2010 i.e. the said order would be subject to the final outcome of the vigilance case is it legal and perverse especially in view of the earlier order of this Court dated 18.12.2009 passed in CWJC No. 1005 of 2008.

5. For the reasons mentioned herein above, though the impugned order dated 28.04.2010 is upheld to the extent the respondents authorities have ordered for withholding 20% of the salary of the petitioner for the suspension period, however that portion of the said order dated 28.04.2010 whereby and wehreunder the same has been made subject to final outcome of the vigilance case is quashed.

6. The writ petition is partly allowed.

(Mohit Kumar Shah, J)

BTiwary/Md Rashid

AFR/NAFR	NAFR
CAV DATE	N/A
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