

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23384 of 2013

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1. Ramkrit Pandey Son Of Ganesh Pandey Resident Of Mohalla -
Bishnupuri Colony (Chand Chaura), Police Station - Civil Lines, District -
Gaya

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of
Education, Government Of Bihar, Patna
2. The Director, Secondary Education, Bihar, Patna, Bihar Secondary
Education Office, Budh Marg, Patna - 800001
3. The Regional Deputy Director Of Education , Magadh Division, Gaya
4. The District Education Officer, Nawada

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar

For the Respondent/s : Mr. K.P. Gupta

Mr. Binod Kumar Yadav, S.C.-18.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY
ORAL ORDER

4 28-08-2018 Heard learned counsel for the petitioner and counsel
appearing on behalf of the State.

Earlier the petitioner's 20 per cent pension was forfeited for
alleged lapse. The order was challenged by the petitioner in
C.W.J.C. No.5381 of 2006. The writ Court on consideration of
various aspect directed the respondent to take final decision within
a period of six months. Respondents have passed fresh order and
modified the previous order of punishment and instead of
forfeiting 20 per cent pension now the respondents have decided
to forfeit 5 per cent pension for a period of three years and so far



as period of suspension is concerned, they have passed order that the petitioner shall not be entitled to any payment other than substantive allowance for the period of suspension, however, that period shall be counted for the purpose of pension. Learned counsel submitted that the effect of the order is recurring loss to the petitioner.

The Court finds that the order of forfeiture of 5 per cent of pension is not with cumulative effect and as such after three years the 5 per cent forfeiture of pension is bound to be restored in terms of the order dated 18.03.2013. So far as payment of salary for the period of suspension is concerned, the respondents have not passed any order during the period when the petitioner was in job and once the relationship of master and servant comes to an end, the petitioner can only be inflicted punishment within the parameters of Bihar Pension Rules. Bihar Pension Rules does not authorize the employer to pass order for forfeiture of salary for the period of suspension. Accordingly, the second part of the order dated 18.03.2013, so far as forfeiture of salary except subsistence allowance is concerned is without jurisdiction and the same cannot sustain, and accordingly quashed. The writ application is partly allowed.

The respondents are required to pay salary for the period of



suspension as no punishment order can be passed after superannuation. The respondents are accordingly directed to work out the entitlement for payment of salary for the period of suspension within a maximum period of four months from the date of receipt / production of a copy of this order.

With the aforesaid observation and direction, this writ petition is partly allowed and disposed of.

(Anil Kumar Upadhyay, J)

Sanjeev/-

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