

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11989 of 2017

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Premchandra Das, S/o Late Kamal Das, Resident of Village-Purushottampur,
P.S.-Maniari, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department, of Revenue and Land Reforms, Govt. of Bihar. Patna
2. The Commissioner, Tirhut Division, Muzaffarpur
3. The District Magistrate, Muzaffarpur
4. The Additional Collector, Muzaffarpur
5. The Block Development Officer, Block Motipur, District-Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Saroj Kumar, Adv. Mr. Bimlendu Shekhar Thakur, Adv.
For the Respondent/s	:	Mr. Rishi Raj Sinha-SC19 Mr. Birendra Pd. Singh, AC to SC19

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 10-09-2018

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order dated 19.9.2015 and also the order dated 21.2.2017 passed by the appellate authority in Civil Appeal Case No. 230 of 2016.

The petitioner has confined his argument only to the extent that by way of punishment, the petitioner has been debarred to receive salary except what was paid as subsistence allowance during suspension period without giving proper notice and without giving an opportunity of hearing and in support of his argument has placed reliance on the judgment passed by this Court in the case of Dinesh Prasad Vs. State of Bihar & Ors. reported in 2006 (4) PLJR 514 which prescribes that in the event of depriving the person from salary but confining the payment of subsistence allowance only, in such



circumstances, the Disciplinary Authority is required to give notice of show-cause under Rule 97 (3) of the Bihar Service Code and after receipt of the explanation could have passed the order.

From perusal of the order of the Disciplinary Authority as well as the appellate authority, it does not reflect that before imposing this penalty of deprivation of salary, any show-cause was given to the petitioner and, whereafter, the order of punishment has been passed.

In that view of the matter, the order of the Disciplinary Authority to the extent of depriving the petitioner from salary for the period of suspension, save and except the subsistence allowance, is set aside and the matter is remanded back to the Disciplinary Authority who will give a show-cause notice to the petitioner in terms of Rule 97(3) of the Bihar Service Code and, after receipt of the same, liberty is granted to take a decision in accordance with law.

This writ application is, accordingly, allowed to the extent indicated above.

(Shivaji Pandey, J)

rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2018
Transmission Date	

