

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 15994 of 2013

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Krishna Prasad Son of late Durga Pd Resident Of Mohalla - Rang Bahadur Road,
Telbigha, P.S. Kotwali, Distt. - Gaya

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. Of Bihar, Patna
2. The District Magistrate, Gaya
3. The Circle Officer, Belaganj, Gaya
4. The Circle Officer, Konch Block, Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Ram Hriday Prasad, Advocate
For the S t a t e : Mr Ashok Kumar Dubey,
Ms Anushree, Advocates

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 04-07-2018

Heard learned counsel for the petitioner and the
respondent-State.

2 The petitioner has approached this Court being aggrieved by the action of the respondents in considering certain periods during which he was placed under suspension that is between 18.05.1979 to 05.01.1981, January 1999 to April 1999, August 2000 to December 2000 and May 2005 to 18.12.2005 as breakage in service. The petitioner has submitted that during the said period, he was under suspension and, as such, he is entitled to salary for the said periods and that the same cannot be treated as breakage in service. He also claimed salaries for June and July 2006 which are said to have



been denied due to non-availability of funds.

3 The respondents have filed supplementary counter affidavit wherein they have submitted very exhaustive list alleging that the petitioner has been unauthorisedly absent on various dates in between 11.06.1973 to 31.01.2005.

4 The same does not cover all the periods for which the petitioner is claiming salary. Apart from that, the stand of the respondents in the supplementary counter affidavit is that the petitioner has never made any claim for extraordinary leave and that he has never submitted documents to show that he was entitled to medical leave for some of the periods in which the petitioner is claiming to be ill and for which he wants that the period may be treated as extraordinary leave.

5 Since these are issues, which are to be examined with reference to the records, this Court would consider it appropriate that respondent No 2 may make a fresh decision in the matter. The petitioner may make his application placing on record the contemporaneous documents to show that he was entitled to extraordinary leave for any of the periods. Since all the periods claimed by the petitioner have not been covered in Annexure C, respondent No 2 may take a fresh decision on plea made by the petitioner. While taking the said decision, the order dated 20.06.2018



issued by respondent No 2 shall not stand in the way of respondent No 2 to take fresh decision.

6 Let the petitioner make his comprehensive application within a period of two weeks from today. If such an application is made within two weeks from today, respondent No 2 shall consider and dispose of the same by a reasoned and speaking order within a period of eight weeks thereafter and if any dues are found then steps should be taken to extend the consequential benefits to the petitioner within a period of four weeks thereafter.

7 Writ petition is disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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