

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.764 of 2016**

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Ramakant Mishra, S/o Late Sitaram Mishra, Resident of Mohalla- I.T.I., P.S.- Bettiah, District- West Champaran.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Collector, West Champaran at Bettiah.
2. The Registrar, Civil Court, Bettiah.
3. The District and Sessions Judge (In his administrative capacity), West Champaran at Bettiah.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.

For the Respondent/s : Mr. Anjani Kumar, AAG-6

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 18-08-2018**

Heard Mr. Sanjeev Kumar, learned counsel appearing for the petitioner and learned counsel appearing for the State.

It is six years after passing of the punishment order by the District and Sessions Judge, West Champaran through Memo No.104 dated 23.12.2010, whereby the scale of the petitioner was reduced to the basic stage in the time scale of pay while upholding his claim for annual increment, that the petitioner has chosen to leisurely come before this Court.

The action is sought to be justified by Mr. Sanjeev Kumar, learned counsel appearing for the petitioner by inviting the attention of this Court to the punishment order impugned at Annexure 2 and to submit that since the order was made subject to the outcome of



the criminal trial initiated against the petitioner and which got concluded later on, that having approached the District Judge and not getting a favourable order that the petitioner is before this Court.

Mr. Sanjeev Kumar has made reference to the order dated 8.9.2015 of the District and Sessions Judge, West Champaran at Bettiah, whereby the District Judge has allowed payment of the differential amount of subsistence allowance. He submits that though order is passed for payment of salary for the suspension period but no order is passed on recall of the punishment order which has not been interfered with despite the acquittal of the petitioner in the criminal case.

Having heard learned counsel for the parties, in my opinion, this writ petition is misconceived because it is not the punishment order which was made subject to the outcome of the criminal trial rather it is the order reducing the salary to the subsistence allowance drawn during the period of suspension which was made subject to outcome of the appeal. This stipulation is found in the penultimate paragraph of the punishment order. It is misreading the order of the District and Sessions Judge enclosed at Annexure 2 that despite relief given to the petitioner for payment of salary for the suspension period vide order dated 18.9.2015 at Annexure 5 as per



the stipulation present in Annexure 2 that after lapse of six years this writ petition is filed for setting aside the punishment order in view of the acquittal in the criminal case.

As I have observed above there is no caveat present in the order of the District and Sessions Judge in so far as it proceeds to impose penalty that it shall be governed by the outcome of the criminal case rather this stipulation is restricted to the entitlement of the petitioner for salary during the suspension period.

Neither on merits nor on the leisurely approach of the petitioner, is the grievance sustainable.

The writ petition is dismissed.

**(Jyoti Saran, J)**

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