

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5101 of 2018

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Deepak Das Son of Late Dharam Das Resident of Rajiv Nagar 23 H,
Dharmdas Path, P.O. - Keshri Nagar, P.S. - Rajiv Nagar, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Labour Government of Bihar, Patna.
3. The Director, Labour Resources Department, Govt. of Bihar, Patna.
4. The Joint Director, Labour Resources Department, Govt. of Bihar, Patna.
5. The Dy. Director Labour Resources Department, Govt. of Bihar at Muzaffarpur (Bihar).
6. The Principal, Industrial, Training Institute, Labour Resources Department, Hazipur, District - Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharendra Kumar, Adv.
For the Respondent/s : Ms. Smriti Singh, AC to AAG10

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 25-07-2018

Learned counsel for the petitioner prays for and is allowed to make necessary correction in paragraph no.1 of the writ application.

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

In this case, the petitioner has raised a grievance that the respondents have illegally deducted the salary of the petitioner for the period 16.8.2017, 17.8.2017 and 18.8.2017.

Learned counsel for the petitioner submits that the petitioner was discharging the duty and he was sent on deputation



by the Assistant Director (Examination), Directorate of Employment and Training, was deputed as Centre Superintendent vide letter no. 14.7.2017 and, accordingly, he discharged the duty at the assigned place mentioned in the said notification.

A claim has been made that he has been deprived of his salary from November, 2017 till date.

In the counter affidavit, a stand has been taken that the payment has not been made on account of the fact that the petitioner remained absent from the place of posting and, as such, he has been deprived of the salary on principle of “no work no pay” and further said that he has been visited with a Memo of Charge.

If a person is said to be under suspension, the law is very clear that he will be paid the subsistence allowance for the time he remains under suspension and it has been informed to this Court that the petitioner has not been paid the subsistence allowance. It is the duty of the Disciplinary Authority to ensure payment of subsistence allowance.

Accordingly, this Court directs the respondents to ensure release of subsistence allowance to the petitioner forthwith without any delay preferably within a period of four weeks from the date of receipt/production of a copy of this order.



With regard to payment of salary for the disputed period, the matter is referred to the Principal Secretary, Department of Labour, Government of Bihar, Patna.

If the petitioner files a detailed representation-cum-application raising his grievance with supporting material, if any, the Principal Secretary will dispose of the same after giving an opportunity of hearing to the petitioner.

It has been informed that though the charge-sheet has been served but, the petitioner has not been suspended.

When the petitioner wants to work, the competent authority will be obliged to allow the petitioner to perform his duty and if he is not allowed, he will be at liberty to complain against the competent authority before the Principal Secretary and he will take action accordingly.

The Principal Secretary will also examine as to whether the Principal of the College has acted fairly and properly and if he has not shown fairness with the petitioner, then the Principal Secretary will be obliged to take proper measure for streamlining the functioning of the College.

If the petitioner files an application for adjustment, the authority will pass orders in accordance with law.



With the aforementioned observations and direction, this writ application is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.08.2018
Transmission Date	NA

