

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 3933 of 2016

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Vinod Kumar Sinha, S/o late Giriwardhari Sharan Sinha, Resident of
Mohalla- Nai Basti, Mahadewa, PO + PS-Siwan, District Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Chapra.
3. The District Magistrate, Siwan.
4. The Dy Collector, Establishment, Siwan.
5. The Enquiry Officer-cum-Additional Collector, Siwan.
6. The Presenting Officer -cum- District Panchayat Raj Officer, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Shri Prakash Srivastava, Advocate
For the Respondent/s	:	Mr N P Yadav, SC XXIII with Ms Vijaya Laxmi Srivastava, AC to SC XXIII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 08-05-2019

Heard Mr Srivastava for the petitioner as well as Mr N P
Yadav for the State.

2 Writ petition has been filed claiming salary for the
period 08.10.2013 till 24.04.2015.

3 The Disciplinary Authority, after conclusion of the
proceedings, had awarded the petitioner punishment of dismissal.
The order of dismissal is dated 15.10.2014. The appeal of the
petitioner has been decided by the Divisional Commissioner on
25.04.2015. The same has not set aside the order of punishment



imposed by the Disciplinary Authority. In fact, only the quantum of punishment has been interfered with and a lesser punishment of withholding of three annual increment, without cumulative effect, has been awarded along with the direction that the period of leave, and leave without pay available to the petitioner may be adjusted against the period during which he was kept out of work under the effect of order of punishment passed by the Disciplinary Authority.

4 Mr Srivastava appearing for the petitioner submits that in view of the provisions contained in sub clause (3) of Rule 13 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for brevity, *Bihar CCA Rules, 2005*), petitioner, as a result of the order of Commissioner, Saran Division, is entitled to payment of salary as if no order of dismissal or removal had been passed by the Disciplinary Authority.

5 Sub rule (3) of Rule 13 will apply to a circumstance where the order of dismissal, removal or compulsory retirement is set aside on merit or on the ground of non-compliance of these Rules and where no further enquiry is proposed. In the instant case, proceedings have not concluded in setting aside of the punishment of dismissal. In fact, Appellate Authority has substituted the punishment of dismissal with a lesser punishment.



Even after passing of the appellate order, petitioner is still guilty and stands punished. There is no such decision that no further enquiry is to be held against the petitioner. In fact, the petitioner has been awarded punishment by the Appellate Authority, i e, Divisional Commissioner, and in the facts of the instant case, petitioner cannot claim any benefit under sub-rule (3) of Rule 13 of the Bihar CCA Rules, 2005.

6 Prayer made in the writ petition is, therefore, devoid of merit. Writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	AFR
CAV DATE	NA
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