

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.385 of 2019

=====

Vijay Kumar Sinha Son of Late Bindeshwari Prasad Sinha Resident of C/o Anita Mehta, DIET Campus, Panchayati Akhara, P.S.-Kotwali, Town and District-Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna
2. The District Magistrate, Gaya.
3. The District Establishment Deputy Collector, Gaya
4. The Senior Treasury Officer, Gaya Treasury, Gaya.
5. The Commissioner, Magadh Division, Gaya

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Dhurb Mukherji
		Mr. Md. Nazir Ansari
For the Respondent/s	:	Mr.Md.Nadim Seraj,GP 5
		Ms. Shalini , AC to GP 5

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 11-07-2019 Counsel for the petitioner is permitted to implead the Commissioner, Magadh Division, Gaya as respondent no.5 to the writ petition in course of the day.

Heard learned senior counsel for the petitioner and learned counsel for the respondents-State.

While petitioner was working as Chief Accountant in the Treasury office, Gaya proceedings were initiated against him alleging non-compliance of transfer order. In respect of the said charge, counsel for the petitioner submits that subsequently, transfer order itself has been held to be not sustainable in the same proceeding.



This court is not going into details. In view of the nature of order this court proposes to pass this court would not deal with the proceedings and punishment inflicted upon the petitioner under order dated 17.10.2014 issued by District Magistrate, Gaya, under clause 14(V) of CCA Rules, 2007 directing for withholding two annual increments of the petitioner with cumulative effect. The same even as per order of the District Magistrate has not taken effect.

Having regard to the said submissions, petitioner's prayer made in para 1 (iii) (c) (f) are therefore, to be considered and payment has to be made to the petitioner as per admissibility by the respondents authorities. Even if order of punishment stands as it is, petitioner would be entitled to the said benefit.

Learned senior counsel for the petitioner submits that on a representation being made by the petitioner for his dues for the period of suspension, the Collector has come out with an independent/ new order dated 15.12.2014 directing for withholding his salary for the period of suspension. The same is Annexure 2 to the instant petition. It is submitted that the order has been issued without affording any opportunity to the petitioner and the original punishment does not entail any such



consequence of depriving the petitioner dues for the period of suspension. The order of the District Magistrate, Gaya dated 17.10.2014 as well as order dated 15.12.2014 are both appealable before the Commissioner (respondent no.5).

This court would therefore, direct that the petitioner should approach the Commissioner (respondent no.5). Respondent- Commissioner should examine the claim of the petitioner and pass order thereupon in accordance with law. Having regard to submissions of learned senior counsel for the petitioner that the order dated 15.12.2014 was not preceded by any opportunity/ show cause and therefore in non-compliance with principle of natural justice. Commissioner should take final decision on the appeal of the petitioner, if preferred against these two orders within three months from the date of receipt/production of a copy of this order.

Petitioner should approach the Commissioner by filing his appeal/ representation against said two orders within four weeks from today.

It is made clear that without raising issue of delay, Commissioner should proceed to pass order on appeal/ representation on merit in accordance with law by reasoned and speaking order.



Writ petition stands disposed of with the aforesaid
directions/observations.

(Madhuresh Prasad, J)

s.hassan/-

U			
---	--	--	--

