

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19782 of 2018

Hari Gopal Singh, Son of Kameshwar Prasad Singh, Resident of Ward No. 9, Naya Tola, Mohanpur, Gaughatta English, Bhagalpur, P.O. and P.S. Bhagalpur, District- Bhagalpur, presently posted as Executive Engineer, Building Construction Department, Building Design Circle No.1, Patna (under Suspension)

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Building Construction Department, Government of Bihar, Patna.
3. The Under Secretary, Building Construction Department, Government of Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. S.B.K. Manglam, Advocate Mr. Kishlay Raj, Advocate
For the State	:	Mr. Uday Prasad, AC to GP-22

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 21-05-2019

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

In the present case, the petitioner is challenging the order of suspension dated 10.09.2018 on the ground that in terms of Rule 9 (1) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, a person can be put under suspension by the Competent Authority, but as per Rule 9 (7) of the CCA Rules, 2005, the life of the suspension order will be three months, within that period, the charge sheet should be framed and



served upon the person. In the event, if it is not framed and served, then the reason will be recorded in writing and it can be extended for a further period of four months, but thereafter, the order of suspension shall stand revoked subject to the condition the charge is not framed and served within the time prescribed. The charge sheet has not been served upon the petitioner and the three months came to end on 7.12.2018 and, thereafter, no order has been passed for extension of further four months.

In such view of the matter, in terms of Rule 9 (1) read with Rule 9 (7) of the CCA Rules, 2005, the life of the suspension order dated 10.09.2018 will be treated to have extinguished on expiry of period of three months as the same has not been extended, but that does not mean that the Authority is denuded of the power, if they so like, they may take action in accordance with law.

However, the petitioner submits that even subsistence allowance has not been paid. If that be so, the Authority must ensure the payment of subsistence allowance and also the payment of full salary within a period of eighty days from the date of receipt/production of a copy of this order, as the order is no longer treated to be valid after three months in terms of the statutory provision.



With this observations and directions, this writ application is allowed to the aforesaid extent.

(Shivaji Pandey, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
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