

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7337 of 2019

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Binay Kumar @ Binay Kumar Rai Son of Chandrika Prasad Resident of
Village-Dharampur, Punjabi Colony, Ward No. 1, P.S- Samastipur Town,
Distt. Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department,
Government of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government,
of Bihar, Patna.
4. The Principal Secretary, Department of Finance, Government of Bihar,
Patna.
5. The Commissioner, Tirhut Division at Muzaffarpur.
6. The District Magistrate cum-Collector, West Champaran at Bettiah
7. The Additional Collector/Sub-Divisional Officer, Narkatiaganj, West
Champaran at Bettiah
8. The Deputy Collector, Establishment, West Champaran at Bettiah.
9. The Treasury Officer, West Champaran at Bettiah.
10. The Circle Officer, Mainatand, West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anshuman Singh, Advocate
For the Respondent/s : Ms. Sangh Mitra Ghosh, AC to GP-15

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 01-05-2019

Heard Mr. Anshuman Singh, learned advocate

for the petitioner and Ms. Sangh Mitra Ghosh, learned

AC to GP-15.

2. The petitioner, during the tenure of his

service, was subjected to a criminal prosecution for



which he remained in jail for about a year but no departmental proceeding was initiated against him.

3. After his superannuation, the petitioner had prayed for payment for the period that he remained in jail. The aforesaid request of the petitioner has been turned down by the District Magistrate, West Champaran at Bettiah vide order dated 02.11.2017 contained in Memo No. 492, which order has been affirmed by the Commissioner, Muzaffarpur vide order dated 21.08.2018 passed in Service Appeal Case No. 182 of 2017.

4. Mr. Anshuman Singh, learned advocate for the petitioner has submitted that after the petitioner came out from jail, the departmental proceeding against him was mooted but the District Magistrate, Bettiah did not sign the charges and returned the same to the Circle Officer, Mainatand, Bettiah for framing another set of charge. Again, the same charges were framed and therefore the District Magistrate, who was the Disciplinary Authority did not accord approval for such a



charge.

5. The upshot of the aforesaid development was that the petitioner was never put to any departmental proceeding. It further appears from the records of the case that the trial against the petitioner ended in an order of acquittal because of no prosecution witness appearing before the Trial Court. Under the aforesaid circumstances, the petitioner has prayed for the salary for the period that he was in jail and which was denied to him.

6. The request has been turned down on the ground of 'no pay no work'.

7. The departmental proceeding against the petitioner could not be initiated because of faulty framing of charge by the Circle Officer. Allowing the petitioner to be paid for the period that he did not work would amount to giving a premium over the inaction of the State Government/concerned respondent in initiating departmental proceeding against him. The acquittal of



the petitioner also does not appear to be on merits but only because of witnesses not forthcoming to bolster up the charges against the petitioner.

8. These grounds do weigh with this Court in not acceding to the request of the petitioner.

9. For the aforesaid reason, the order 02.11.2017 contained in Memo No. 492 passed by the District Magistrate, West Champaran at Bettiah as well as the order dated 21.08.2018 passed by the Commissioner, Muzaffarpur in Service Appeal Case No. 182 of 2017 are refused to be interfered with.

10. The petition, therefore, stands dismissed.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07/05/2019

