

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5369 of 2016

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Nakul Kumar Singh Son of Late Karu Singh, resident of Village-
Utrilakhibagh, Janakpur- Manpur, P.S.- Muffasil, District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director, Health Services, Employees State Insurance Scheme, Labour
Resource Department, New Secretariat, Patna
3. Dr. Dinbandhu Sharma, Deputy Director-cum-conducting Officer, Health
Services, Employees State Insurance
4. The Medical Officer, Employees State Insurance Dispensary, Biharsharif.
5. The Medical Officer, Employees State Insurance Dispensary, Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gajendra Kumar Jha Mr. Sushil Kumar Jha Mr. Surya Kant Mishra
For the Respondent/s	:	Mr. Pawan Kumar, AC to AG

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 07-11-2019

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

Petitioner was working in Employee State Insurance
Dispensary, Biharsharif as a clerk.

Shorn of unnecessary details, this court would confine
itself to judicial review with respect to charge no.8 for which
petitioner has been visited with punishment under order dated
19.10.2016. Authorities have directed for withholding of one
annual increment of the petitioner with cumulative effect; and



other than subsistence allowance there shall be no payment of the period of suspension.

Substance of charge no.8 is that the petitioner had been sent for obtaining some medicine on 07.11.2014. The records show that he had received medicine on 07.11.2014 from Phulwarisharif (Patna). Thereafter, he had returned to Biharsharif and on next day i.e. on 08.11.2014 he had again gone to Patna on the pretext of obtaining the medicine. Such conclusion is based on the fact that receiving of the petitioner at Patna is dated 07.11.2014. It is for this lapse, petitioner has been visited with punishment which has been taken note of hereinabove.

Petitioner had taken a plea before the authorities that owing to massive jam, he reached Patna on 07.11.2014 and by the time he reached, Regional Administrative Medical Officer had already shut down store from where he was required to obtain medicine. Accordingly, on the next day i.e. on 08.11.2014 he took the medicine. However, since direction/ allotment was for 07.11.2014, he had given receipt dated 07.11.2014.

It is the petitioner's case that medicine was obtained on 08.11.2014. The aspect which has occasioned the punishment against the petitioner is apparent from conclusion that he had gone to Patna twice.



Other than the presumptive conclusion, there is no evidence either oral or documentary. Conclusion based on no evidence is therefore, clearly unsustainable.

Admission of the petitioner is coupled with explanation for delay on account of massive jam. Petitioner stayed over night. Such action does not in the opinion of this court constitute any misconduct. Finding that petitioner had visited Patna twice is not based on any evidence whatsoever.

Order of punishment dated 19.10.2016 being based on such baseless findings is hereby quashed. As a result of quashing of the order of punishment, petitioner is entitled to all consequential benefits.

Writ petition stands allowed.

(Madhuresh Prasad, J)

s.hassan/-

AFR/NAFR	NAFR
CAV DATE	NA
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