

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4284 of 2017

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Ram Kewal Sharma Son of Late Deo Shital Sharma, Resident of Village-
Laxman Pur bath, P.S.-Parasi, District-Arwal Petitioner/s
Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Government of Bihar,
Patna.
3. The District Magistrate, Arwal.
4. The District Education Officer, Arwal.
5. The District Programme Officer, Establishment, Arwal.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Bindeshwar Kumar, Advocate
For the Respondent/s : Mr.Arvind Kumar AC to GP 23

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 22-08-2019 Heard learned counsel for the petitioner and the

State.

The petitioner has filed the present writ petition for
a direction to the respondents to pay arrears of salary for the
period he was in judicial custody i.e. from 18.12.1997 to
21.09.1998.

From Annexure-2 it appears that the petitioner on
conviction was inflicted death sentence. However, his appeal
was allowed by the High Court on 9.10.2013.

Learned counsel for the petitioner submits that the
petitioner is entitled to payment of salary for the period he was
in judicial custody. He placed reliance on the order dated
6.12.2012 passed by a Co-ordinate Bench in CWJC No. 829 of
2010. The Co-ordinate Bench relying upon Rule 96 of the Bihar



Service Code held out that the petitioner is entitled to payment of full salary. However, the relevant rule 97 of Bihar Service Code warrants appropriate decision on the point of treatment of period of suspension.

In view of the above, the Court is of the considered view that for the period the petitioner was in judicial custody, the respondents are required to pass appropriate order in terms of Rule 97 of the Bihar Service Code. There cannot be automatic entitlement of payment of salary if the incumbent is released from jail. Since there is no decision in terms of Section 97, the Court directs the respondents to take appropriate decision in terms of Rule 97 of the Bihar Service Code as to whether the petitioner is entitled for salary or not.

The writ petition is disposed of with direction to the respondents to take appropriate decision in terms of Rule 97 of the Bihar Service Code within a maximum period of 60 days from the date of receipt/production of a copy of this order.

The payment of salary would abide by the final decision in this regard by the respondents.

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(Anil Kumar Upadhyay, J)

