

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5386 of 2017

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Hari Darshan Prasad Son of late Ram Narayan Prasad, Resident of Mohalla-
West Lane No.-1, Prithvipur, Chiraiyantarnd, P.S.-Jakkanpur, District-Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar, through the Principal Secretary, General Administration
Department, Government of Bihar, Main Secretariat, Patna
2. The Divisional Commissioner, Darbhanga.
3. The District Magistrate, -Cum-Collector, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abul Kalam
For the Respondent/s : Mr. Sheo Shankar Pd.-SC-8

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 31-01-2019

The petitioner was dismissed from service by
order dated 27.01.2014 passed by the District
Magistrate, Samastipur after a departmental proceeding
which was initiated against him on the basis of the
petitioner having been arrested on the charge of
accepting bribe from the complainant.

The petitioner had challenged the aforesaid
order of dismissal before the Appellate Authority, urging
that the provisions of the Bihar Government Servants



(Classification, Control & Appeal) Rules, 2005 were completely given a go by and the order of dismissal was passed. After hearing the petitioner, the Appellate Authority vide order dated 17.03.2017 passed in Service Appeal No. 10 of 2014 remitted the case to the Collector for passing a fresh order after making him available a copy of the charge, list of documents which have been relied upon as well as the enquiry report and affording hearing to him. However, for passing the aforesaid order, the Appellate Authority took around three years.

In any view of the matter, the District Magistrate, Samastipur has now passed an order after complying with the direction of the Appellate Court, dismissing the petitioner from service.

The aforesaid order of the District Magistrate dated 15.01.2018 has been brought on record by way of the Interlocutory Application as contained in Annexure-13 as the writ petition was originally filed against the order of remand without setting aside the order of punishment



by the Collector.

It has also been submitted on behalf of the petitioner that since he has superannuated, in the meanwhile, on 30th of June, 2018, he no longer remains a Government servant and therefore, he would not be under an obligation to prefer a statutory appeal, which is only available to a Government servant.

The aforesaid argument is unacceptable as Rule 23 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 which provides for statutory appeals does not make any such distinction between a serving government servant and a retired government servant. Otherwise also, the proceedings would be reconable to the date when the petitioner serving in the Department.

The petitioner, therefore is directed to approach the Appellate Authority and assail the order dated 15.01.2018.

It is, however observed/directed that the



Appellate Authority shall dispose off the appeal as expeditiously as possible, preferably within a period of three months.

With the aforesaid direction, the writ petition is disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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