

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2749 of 2020

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Gayatri Kumari, Wife of Sri Pankaj Kumar Resident of Mohalla- Pir
Damariya, P.S.- Malsalami, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The District Education Officer Jehanabad.
3. The District Programme Officer Jehanabad.
4. The District Programme Officer (Establishment) Jehanabad.
5. The Block Education Officer Jehanabad.
6. The Block Development Officer Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Advocate Mr. Ritika Rani, Advocate
For the Respondent/s	:	Mr. J. P. Kishore, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 24-02-2020 Heard learned counsel for the petitioner and the State.

The petitioner is aggrieved by the office order dated
26.12.2017, as contained in Annexure-1 to the writ petition,
whereby the petitioner has been put under suspension.

It is the contention of the petitioner that after
suspension, the petitioner has not been paid subsistence
allowance. In addition thereto, counsel for the petitioner has
drawn the attention of the Court to the statement made in the
petition that the petitioner has not been paid salary for the
period from 27.07.2015 to February 2016 and from February



2017 to 25.11.2017.

Suspension is not cessation of master servant relation and payment of subsistence allowance is essential precondition for suspension and initiating departmental proceeding. In the present case, the petitioner was put under suspension along with others on 07.12.2017 but he was not paid subsistence allowance for more than two years. None payment of subsistence allowance vitiates the entire departmental proceeding. The law in this regard is well settled. The Supreme Court has occasion to decide such issue in the case of State of Maharashtra Vs. Chandrabhan Tale AIR 1983 SC 803 and in the case of M. Pal Anthony Vs. Bharat Gold Mines Ltd. & Anr (1999) 3 SCC 679.

In view of the principle laid down by the Apex Court, the present writ petition is disposed with the direction to the respondent to ensure payment of arrears of subsistence allowance in one go within a period of one month from today failing which the departmental proceeding shall come to an end and the petitioner shall be deemed to be reinstated with all back wages.

It goes without saying that if the petitioner had worked for the period he was not under suspension then the



petitioner is entitled to salary and the respondents have to work out the entitlement of the petitioner for payment of arrears of salary thereof within a maximum period of 60 days from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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