

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4217 of 2019

=====

Arun Kumar Singh Son of Late Ram Bihari Singh Resident of 170-C,
Patliputra Colony Path, P.S.- Patliputra, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors through the Principal Secretary, Social Welfare Department, Government of Bihar, Patna
2. The Joint Secretary, Social Welfare Department, Government of Bihar, Patna
3. The Director, Social Welfare Department, Government of Bihar, Patna
4. The Principal Secretary, Department of Finance, Government of Bihar, Patna
5. The Director, General Provident Fund Directorate, Pant Bhawan, Patna
6. The Treasury Officer, Vikash Bhawan, Patna

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Jagnnath Singh
For the Respondent/s : Mr.S.K. Mandal (Sc3)

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

5 08-07-2020 The petitioner has preferred the present writ application seeking direction for payment of post retiral dues and arrears of salary from May 2016 to June 2017, during which the petitioner was under suspension and the order of suspension was subsequently quashed by this Court by an order dated 31.01.2017. He has also sought for payment of arrears arising out of grant of first and second Assured Career Progressions. Counter affidavit have been filed on behalf of the respondents. On perusal of the latest counter affidavit filed on behalf of the respondents, it appears that the petitioner has been paid his all



retiral dues and arrears arising out of grant of Assured Career Progression. A dispute relates to payment of full salary for the period during which, the petitioner had remained in suspension only subsists.

In respect of petitioner's claim for payment in salary for the period during which he was under suspension, certain facts are not in dispute. On the allegation of some misconduct, the petitioner was put under suspension on 16.06.2016. The said order was challenged before this Court by the petitioner by filing a writ petition, which had given rise to C.W.J.C. No. 10417 of 2016. It transpires from the order of this Court passed on 31.01.2017 in that case that despite lapse of period of three months from the date of order of suspension, no charge sheet was legally found to have been framed against the petitioner and issued to him. Invoking rule 9(7) of Bihar Government Servant (Classification Control and Appeal) Rules, this Court quashed the order of suspension by an order dated 31.01.2017 passed in C.W.J.C. No. 10417 of 2016, relevant portion of which reads thus:-

“In other words the suspension order having been passed on 16.06.2016, a period of three months has lapsed and no valid charge-sheet has been issued. On this short ground, the order of suspension has to go for it is hit by rule 9(7) of ‘the Rules’. Accordingly the order of suspension bearing Memo No. 2713 dated 16.06.2016



passed by the State Government in the department of Social Welfare is quashed and set aside.”

Evidently the order of suspension was not quashed being unauthorized or *void ab initio* rather by invoking Rule 9(7) of the Rules, as no charge sheet could be issued within three months from the date of issuance of the order of suspension.

Learned counsel appearing on behalf of the petitioner appears to be correct in his submission that the order of suspension became inoperational after expiry of three months from issuance of the said order by operation of Rule 9(7) of the Rules. The petitioner, accordingly, was entitled for payment of full salary thereafter.

Considering the facts and circumstances of this case, this application is disposed of with a direction to the respondents to pay to the petitioner arrears of salary from 16.09.2016 till passing of the final order in the disciplinary proceeding. So far, rest of the period of suspension i.e. 16.06.2016 to 15.09.2016 is concerned, it is an admitted fact that the petitioner has been paid his subsistence allowance. The respondents are directed to consider whether the petitioner should be entitled to salary for the said period also.

Considering the circumstance that finally the respondents have decided to impose minor punishment of censor only, after



conclusion of the departmental enquiry, the decision must be taken within three months from the date of receipt/production of a copy of this order. So far as payment of arrears of salary during the period of suspension after 16.09.2016 is concerned, the same must be paid after adjusting the amount of subsistence allowance within three months from the date of receipt/production of a copy of this order.

This disposes of this application.

(Chakradhari Sharan Singh, J)

AKASH/-

U			
---	--	--	--

