

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.20651 of 2019**

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Pritam Singh Son of Late Parmeshwar Nath Singh Resident of Village-  
Kishunpura, P.S.-Koilwar, District- Bhojpur (Ara).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary Department of Home, Govt. of Bihar, Patna.
2. The Director General of Police, Bihar Patna.
3. The Inspector General of Police Railway Bihar, Patna.
4. The Deputy Inspector General of Police (Rail) Patna.
5. The Superintendent of Police, Railway, Muzaffarpur.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Md. Anisur Rahman  
For the Respondent/s : Mr. Md.N.H.Khan (Sc1)

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA**  
**ORAL ORDER**

2      07-01-2020                      Heard learned counsel for the petitioner and learned  
counsel appearing on behalf of the State.

The petitioner has come to this Court for payment of salary for the period 08.11.2014 to 13.03.2016 to which he claims to be legally entitled.

Learned counsel for the petitioner submits that the petitioner who is a Constable working in the Muzaffarpur District was the Secretary of the Muzaffarpur Rail Policemen Association and being an office bearer of the Association, he was required to work for the welfare of the Policemen. It is further submitted that the petitioner was transferred from Rail



Police Muzaffarpur to Patna Police on 07.11.2014, ignoring the fact that the petitioner is a Secretary of the Bihar Policemen Association, Muzaffarpur and being its office bearer was exempted from any transfer. It is further submitted that the petitioner represented against the aforementioned transfer requesting the authorities to cancel the transfer order which was considered and the petitioner was stayed by the order of the Director General of Police, Bihar, Patna. The said order by which the petitioner's transfer was stayed by the D.G.P., Bihar, Patna bearing Memo No. 1582 dated 14.03.2016 has been brought on record (Annexure-1). The petitioner then filed a representation dated 02.04.2016 to the Superintendent of Police (Rail) Muzaffarpur stating therein that on transfer from Muzaffarpur to Patna, he was relieved on 01.11.2014, but due to certain family problems, he could not proceed to the transferred post and now since his transfer order has been stayed, he may be permitted to stay at the Police Headquarter and further prayed for payment of salary to him.

Learned counsel for the petitioner submits that though the Respondent No. 5 (The Superintendent of Police, Railway, Muzaffarpur) had directed that the petitioner will be paid salary for the period 18.11.2014 to 13.03.2016, later on, the matter



was referred to the Director General of Police, bringing on record all facts and requesting him to give guidelines regarding payment of salary for the period 08.11.2014 to 13.03.2016 (Annexure-4).

It appears that the petitioner's salary was, however, withheld by the Superintendent of Police (Rail), Muzaffarpur giving reference to Memo No. 1765-P-3 dated 09.06.2016 whereby the Director General of Police, Patna, passed an order under Memo No. 1472 dated 21.06.2016 to withhold the salary of the petitioner for the period 08.11.2014 to 13.03.2016 on the principle of 'No work No Pay' and his period of absence for the aforementioned period has been treated as "extraordinary leave".

Learned counsel then contends that, if at all, the period was to be treated as a leave period then the authorities ought to have adjusted the said period of absence with leave which was available to the petitioner and not against the "extraordinary leave". It is submitted that "extraordinary leave" is only ventured to be utilized in the case of non-availability of other leave admissible to any employee. He thus submits that the entire order is illegal, arbitrary and against the settled principles of law with regard to the present issue and the order



deserves to be set aside and the petitioner's period of absence be treated as other leave which has accrued in his favour during his service career and appropriately adjusted so that he may avail the salary for the period of leave so stayed.

Learned counsel for the State, however, submits that there is no details of the leave which was available to the petitioner and the authorities have in their own wisdom deducted the salary and treated the period of absence of the petitioner as "extraordinary leave" which disentitles him to payment of salary.

Be that as it may, this Court finds that if what goes by the submissions of the petitioner is found to be correct and true and that other leave is available in his account, the authorities must examine the same and pass a reasoned order after taking into consideration all leaves which have accrued in his favour during his service tenure and it is only thereafter that any deductions from his salary be made in the present context.

It is accordingly directed that the petitioner shall approach the authorities with a copy of this order within a period of two weeks from the date of receipt/production of a copy of this order and file a representation making an appropriate prayer as has been stated hereinabove.



The Deputy Inspector General of Police (Rail), Patna (Respondent No. 4) shall direct an enquiry to be made into the matter regarding the accrual of the leave to the petitioner and if at all any leave which has accrued to him and which can be adjusted otherwise, the authorities shall consider the same and shall proceed to pass an appropriate order in this behalf within a period of six weeks thereafter.

In case, the leave can be adjusted otherwise, the absence of the petitioner for the period 08.11.2014 to 13.03.2016 shall not be treated as an “extraordinary leave” and he shall be paid his salary in accordance with law.

With the aforementioned directions, the impugned order dated 21.06.2016 (Annexure-7) is set aside and the writ application stands consigned.

**(Anjana Mishra, J)**

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