

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5855 of 2020**

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Md. Faiyazul Haque, Son of Israrul Haque, Resident of Village/Mohallah-  
Near Banke Shah Chauk, Mokarri Gali, Near Nisha Manzil, Chandwara, P.S.  
Muzaffarpur (Town), P.O.- G.P.O. District- Muzaffarpur, Pin Code- 842001  
(Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Agriculture Department, Government of Bihar, Patna.
3. The Director Agriculture, Agriculture Directorate, Government of Bihar, Patna.
4. The Joint Director Agriculture (Horticulture), Mithapur, Patna.
5. The District Agriculture Officer, Patna.
6. The Block Development Officer, Barh, District- Patna.
7. The Sub Divisional Agriculture Officer, Barh, District- Patna.
8. The Block Agriculture officer, Barh, District- Patna.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Rakesh Kumar, Advocate  
For the Respondent/s : Mr. Anant Prasad Singh ( SC-15 )

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**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**ORAL JUDGMENT**

**Date : 13-12-2021**

Heard learned counsel for the parties.

2. In the instant petition, the petitioner has prayed for the following reliefs:

“That this is an application for issuance of a writ in the nature of certiorari or any other appropriate writ / rule, direction/ directions for quashing the Report submitted in the Departmental Inquiry by Letter No. 449 dated 28.03.2014 (Annexure-4) and Letter No. 665 dated 25.07.2018 (Annexure-6) and also the Order contained in Memo No. 375 dated 21.06.2019 (Annexure-8)



passed by the Agriculture Director, Government of Bihar, Patna dismissing the Petitioner from Service as Block Agriculture Officer, Dalsingsarai, Samastipur as also the Appellate Order passed by the Secretary to the Government, Agriculture Directorate, Government of Bihar, Patna as contained in Memo No.09 dated 10.01.2020 affirming the Order of dismissal (Annexure-9) by directing the Respondent Authorities to reinstate the Petitioner in service and to pay all the consequential benefits from the date of dismissal i.e. 20.06.2019 and the full salary for the period of suspension excluding the subsistence allowances already paid to the Petitioner during the period of suspension i.e. 19.01.2018 till the date of dismissal from the service i.e. 21.06.2019.

AND/OR

For issuance of any other appropriate writ, rule, direction which your Lordships may deem fit and proper in the facts and circumstances of the case.”

3. One of the contention raised in the present petition is that the petitioner is Block Agriculture Officer and the disciplinary authority is State Government in terms of Rule 6 R/w Rule 7 of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

4. In identical matter in C.W.J.C. No. 4132 of 2020, impugned order therein was set aside and the matter was remanded to the authority.



5. In the light of para 6 of the judgment passed in C.W.J.C. No. 4132 of 2020, the present petition stands allowed. The impugned order of dismissal dated 20.06.2019 is set aside.

6. The State Government is at liberty to proceed the disciplinary proceedings from the defective stage and conclude the same within a period of six months from the date of receipt of copy of this order.

7. In respect of monetary benefits, the State is hereby directed to take note of the Apex Court decision rendered in the case of **Chairman-cum-Managing Director, Coal India Ltd. & Ors. Vs. Ananta Saha & Ors**, reported in **(2011) 5 SCC 142**, in para 46 to 50, it is held as under:

“46. In the last, the delinquent has submitted that this Court must issue directions for his reinstatement and payment of arrears of salary till date. Shri Bandopadhyay, learned Senior Counsel appearing for the appellants, has vehemently opposed the relief sought by the delinquent contending that the delinquent has to be deprived of the back wages on the principle of “no work—no pay”. The delinquent had been practising privately i.e. has been gainfully employed, thus, not entitled for back wages. Even if this Court comes to the conclusion that the High Court was justified in setting aside the order of punishment and a fresh enquiry is to be held now, the delinquent can simply be reinstated and put under suspension and would be entitled to subsistence allowance as per the



service rules applicable in his case. The question of back wages shall be determined by the disciplinary authority in accordance with law only on the conclusion of the fresh enquiry.

47. It is a settled legal proposition that the result of the fresh enquiry in such a case relates back to the date of termination. The submissions advanced on behalf of the appellants that the result of the enquiry in such a fact situation relates back to the date of imposition of punishment, earlier stands fortified by a large number of judgments of this Court and particularly in *R. Thiruvirkolam v. Presiding Officer* [(1997) 1 SCC 9 : 1997 SCC (L&S) 65 : AIR 1997 SC 633], *Punjab Dairy Development Corpn. Ltd. v. Kala Singh* [(1997) 6 SCC 159 : 1997 SCC (L&S) 1434 : AIR 1997 SC 2661] and *Graphite India Ltd. v. Durgapur Projects Ltd.* [(1999) 7 SCC 645].

48. In *ECIL v. B. Karunakar* [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704 : AIR 1994 SC 1074] and *Union of India v. Y.S. Sadhu* [(2008) 12 SCC 30 : (2009) 1 SCC (L&S) 126 : AIR 2009 SC 161], this Court held that where the punishment awarded by the disciplinary authority is quashed by the court/tribunal on some technical ground, the authority must be given an opportunity to conduct the enquiry afresh from the stage where it stood before the alleged vulnerability surfaced. However, for the purpose of holding fresh enquiry, the delinquent is to be reinstated and may be put under suspension. The question of back wages, etc. is determined by the disciplinary authority in accordance with law after the fresh enquiry is concluded.



49. The issue of entitlement of back wages has been considered by this Court time and again and consistently held that even after punishment imposed upon the employee is quashed by the court or tribunal, the payment of back wages still remains discretionary. Power to grant back wages is to be exercised by the court/tribunal keeping in view the facts in their entirety as no straitjacket formula can be evolved, nor a rule of universal application can be laid for such cases. Even if the delinquent is reinstated, it would not automatically make him entitled to back wages as entitlement to get back wages is independent of reinstatement. The factual scenario and the principles of justice, equity and good conscience have to be kept in view by an appropriate authority/court or tribunal. In such matters, the approach of the court or the tribunal should not be rigid or mechanical but flexible and realistic. (Vide U.P. SRTC v. Mitthu Singh [(2006) 7 SCC 180 : 2006 SCC (L&S) 1590 : AIR 2006 SC 3018], Akola Taluka Education Society v. Shivaji [(2007) 9 SCC 564 : (2007) 2 SCC (L&S) 679] and Balasaheb Desai Sahakari S.K. Ltd. v. Kashinath Ganapati Kambale [(2009) 2 SCC 288 : (2009) 1 SCC (L&S) 372].

50. In view of the above, the relief sought by the delinquent that the appellants be directed to pay the arrears of back wages from the date of first termination order till date, cannot be entertained and is hereby rejected. In case the appellants choose to hold a fresh enquiry, they are bound to reinstate the delinquent and, in case, he is put under suspension, he shall be entitled to subsistence allowance till the



conclusion of the enquiry. All other entitlements would be determined by the disciplinary authority as explained hereinabove after the conclusion of the enquiry. With these observations, the appeal stands disposed of. No costs.”

8. The aforesaid proceedings shall be completed within a period of six months.

**(P. B. Bajanthri, J)**

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