

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8730 of 2021

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Binay Kumar Son of Late Ram Nagina Prasad, Resident of Ward No. 30, Neel Kothi, Dehri, P.S.-Dehri on Son, District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Bihar, Patna.
3. The Joint Secretary, Road Construction Department, Bihar, Patna.
4. The Director, Road Construction Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Vinay Ranjan
For the Respondent/s : Mr.Lalit Kishore (Ag)

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

Date : 22-12-2021

Heard learned counsels for the parties.

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

“1. That this is an application for issuance of a Writ in the nature of certiorari to quash the notification bearing no. 269(S) as contained in memo no. 270(S) dated 14.1.2021 issued under the signature of Joint Secretary, Road Construction Department, Bihar, Patna whereby and where under the petitioner has been placed under suspension for the charges that he has uploaded unrespectable post and use unobjectionable word thereon on the social network site (Facebook) on 17.03.2020 and further for issuance of a Writ in the nature of mandamus, commanding and directing the respondent



authorities to reinstate the petitioner on his previous place of posting as the impugned suspension/ notification/ order has been passed as vindictive which is serious stigma and further for issuance of any other appropriate writ or writs, order or orders it may deem fit and proper by this Hon'ble Court.”

3. Petitioner was placed under suspension on 14.01.2021 on certain allegations and charge-memo was issued on 15.03.2021 i.e. almost more than one year from the date of allegations. Apex Court in the case of *Ajay Kumar Chaudhary V. Union of India* reported in *(2015) 7 SCC 291* held that if charge-memo is not filed within a period of three months, in that event, the competent authority was required to revoke the suspension while reviewing the order of suspension, in avoiding prolonged suspension and paying subsistence allowance without extracting work.

4. In the light of Apex Court's decision read with petitioner's representation, the Suspending Authority is hereby directed to undertake review of suspension and revoke the suspension, subject to outcome of disciplinary proceedings. Disciplinary proceedings shall also be concluded within a period of four months from the date of receipt of this order. Above exercise shall be completed in respect of suspension within a period of one month from the date of receipt of this order.



5. At this juncture, learned counsel for the petitioner submitted that petitioner was not paid subsistence allowance.

6. If the subsistence allowance is not paid, the same shall be paid to the petitioner within a period of two weeks from the date of receipt of this order, failing which petitioner is entitled to interest @ 6% per annum on arrears of subsistence allowance.

7. with the above observations, the instant petition stands disposed of.

(P. B. Bajanthri, J)

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CAV DATE	
Uploading Date	
Transmission Date	

