

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15180 of 2014

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Saurabh Kumar Singh son of late Dr. Uma Shankar Sinha, resident of village-
Hariharpur Lalgah, P.S. Gautam Budh Nagar, Jarwara, District- Siwan

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Secretariat
2. District Magistrate, Siwan
3. Deputy Collector, Establishment, Siwan
4. Block Development Officer, Daraundha

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kishore Kumar Thakur
For the Respondent/s : Mr.Manoj Kr. Ambastha

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

9 07-01-2021 Heard Mr. Kishore Kumar Thakur, learned counsel for the petitioner and Mr. Tripurari Nath Ambastha, learned A.C. to S.C.26.

The petitioner in this writ petition seeks direction to the District Magistrate, Siwan to grant Earned Leave or any other leave admissible to the petitioner for his absence from 10.06.2012 to 02.08.2013. The petitioner further seeks direction to the disciplinary authority to grant admissible leave to the petitioner from 18.12.2013 to 28.02.2014 as the petitioner was put under suspension w.e.f. 01.03.2014 and a departmental



proceeding was initiated.

The brief facts relevant for disposal of this case is that the petitioner was appointed on compassionate ground on the post of Clerk in the year 2002. His mother fell ill and consequently on 10.06.2012, the petitioner by filing application went on leave for treatment of his mother. The mother of the petitioner also died even after treatment as she was suffering from Cancer. The petitioner joined on his post on 01.08.2013 but the joining of the petitioner was sent to the Collector for acceptance. The Deputy Collector(Establishment) by letter No.1577 dated 02.11.2013 directed to accept the joining of the petitioner and before acceptance of joining, Earned Leave cannot be sanctioned. The joining of the petitioner was accepted w.e.f. 16.11.2013 although the petitioner submitted his joining on 02.08.2013. The petitioner again proceeded on medical leave for treatment of his eyes on 18.12.2013 but departmental proceeding was initiated on the ground that petitioner proceeded on medical leave without taking prior permission from the disciplinary authority on 01.03.2014 and on the same day, he was put under suspension. The departmental proceeding was held. The Inquiry Officer submitted report and exonerated the petitioner but the disciplinary authority inflicted two fold



punishments. First punishment was for stoppage of two increments with non-cumulative effect and the second punishment was for non-payment of salary during the period on which the petitioner remained unauthorisedly absent. On appeal preferred by the petitioner, the first punishment with regard to stoppage of two increments with non-cumulative effect was upheld but the appellate authority set aside the second punishment inflicted on the petitioner and directed the disciplinary authority to consider the case of the petitioner by giving sound reasoning. On remand, the disciplinary authority, Collector-cum-District Magistrate, Siwan ordered for payment of salary to the petitioner after sanction of admissible leave from 18.12.2013 to 28.02.2014 and, therefore, the second grievance of the petitioner has already been redressed although actual payment of salary after sanction of leave has not been made to the petitioner.

Mr. Kishore Kumar Thakur, learned counsel for the petitioner submits that since the petitioner remain engaged in treatment of his mother, therefore, the petitioner is entitled for different leaves credited in his account but the disciplinary authority even after accepting the joining of the petitioner did not pass any order to sanction the admissible leave to the



petitioner and for payment of salary after sanctioning the leave.

The State has filed counter-affidavit but did not show any reason for non-sanctioning the leave to the petitioner since 10.06.2012 to 01.08.2013 on which the petitioner submitted his joining. The joining of the petitioner have to be accepted from the date he put his joining and not with effect from the date of order of accepting the joining, therefore, the petitioner is entitled to get salary from 01.08.2013 and onward and not from the date of accepting the joining.

So far as the question of sanction of different leaves admissible to the petitioner in his account is concerned, the authority, after accepting the joining of the petitioner, is legally bound to pass order on the application of the petitioner for sanctioning the leave as the petitioner remained on leave for the treatment of his mother and the authority cannot sit over the matter of sanctioning the leave of the petitioner.

In this view of the fact, I direct District Magistrate, Siwan to pass appropriate order with regard to sanction of admissible leave of the petitioner from 10.06.2012 to 02.08.2013 within two months from the date of receipt of this order and make payment of the salary to the petitioner within two months thereafter.



With the aforesaid direction, this writ petition is
allowed. No order as to cost.

Saurabh/-

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(Prabhat Kumar Jha, J)

