

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2380 of 2021

=====

Kundan Singh Son of Subodh Chandra Singh Resident of South to Prabhat Tara Hospital, Chankya Vihar, Bhagwanpur, P.O. Bhagwanpur, P.S. Muzaffarpur Sadar, District- Muzaffarpur, Presently working as Assistant Godown Manager, Bihar State Food and Civil Supplies Corporation, Keshariya, District- East Champaran at Motihari (under suspension).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Consumer and Food Protection Department, Government of Bihar, Patna.
3. The District Magistrate, East Champaran at Motihari, District- East Champaran at Motihari.
4. The Bihar State Food and Civil Supplied Corporation Ltd., Patna through the General Manager
5. The General Manager, The Bihar State Food and Civil Supplied Corporation Ltd., Patna.
6. The Deputy General Manager (Administration), The Bihar State Food and Civil Supplied Corporation Ltd., Patna.
7. The District Manager, The Bihar State Food and Civil Supplies Corporation Ltd., East Champaran at Motihari, District- East Champaran at Motihari.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Shashi Bhushan Kumar Manglam, Advocate
For the Respondent/s	:	Mr. Arvind Kr. Ujjwal, SC-4
For the BSFC	:	Mr. Shailendra Kumar Singh, Advocate
		Mr. Utkarsh Utpal, Advocate

=====

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

Date : 21-12-2021

Heard learned counsels for the parties.

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

“(I) For issuance of an
appropriate writ in the nature of
CERTIORARI for quashing the order
dated 17.08.2020 issued under the



signature of the Respondent no. 6 and contained in his memo no. 6628 dated 17.08.2020 whereby and where under the Respondent no. 6 has placed the petitioner under suspension in exercise of his power as contemplated under Rule-24 of the Disciplinary Rules on the ground that the petitioner has been placed under suspension for a charge which cannot be framed against him, if he had already reported to his higher Authorities about the apprehension of entry of flood water in the godown because of heavy flood but no action was taken by the higher Authorities for transfer of the food grains.

(II) For issuance of an appropriate writ in nature of **CERTIORARI** for quashing the letter dated 11.08.2020 issued under the signature of Respondent no. 3 and contained in his letter no. 736 dated 11.08.2020, whereby and where under the Respondent no. 3 has recommended for suspension of the petitioner on the ground that the flood water had not since entered in the godown all of a sudden rather it had entered gradually and, therefore, the petitioner's negligence had caused loss to the Corporation on the ground that the flood water entered in godown all of a sudden in the morning of 24.07.2020 after the damages caused to the Champaran Embankment of River Gandak in Sangrampur Block in the night of 23.07.2020, the petitioner was not at fault and the entry of flood water beyond his control.

(III) For issuance of an appropriate writ in the nature of **MANDAMUS**, commanding and directing the Respondent Authorities for reinstatement of the petitioner to post which he was holding before his suspension and to pay his full salary for



the period of suspension on the ground that if the suspension of the petitioner is tainted with malafide to save the Officers, whose negligence in fact had caused loss to the organization, the impugned order of suspension cannot be sustained in the eye of law and, therefore, the petitioner is entitled for his full salary from the date of suspension.

(IV) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

3. Learned counsel for the petitioner, on instruction, submitted that pursuant to the suspension order dated 17.08.2020, petitioner was issued charge-memo on 28.08.2020 and enquiry proceedings is still pending consideration. The concerned respondent has not completed enquiry proceedings within a period of three months from the date of issuance of charge-memo dated 28.08.2020, so also they have not undertaken the review of suspension. The object of suspending an employee is to see that he/she shall not tamper the witnesses and records.

4. Having regard to the date of suspension as 17.08.2020 and we are in the month of December, 2021, the disciplinary authority is hereby directed to complete the enquiry proceedings within a period of three months from the date of receipt of this order, failing which, necessary order shall be



passed in reviewing the suspension dated 17.08.2020 in the light of the Apex Court’s decision viz; *Ajay Kumar Chaudhary V. Union of India* reported in *(2015) 7 SCC 291*, such review shall be undertaken within one month and pass necessary order and communicate the decision to the petitioner.

5. With the aforesaid observations, the instant petition stands disposed of.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

