

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4913 of 2021

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Akhilesh Kumar Singh, S/o Late Jag Narayan Singh, Resident of Village-Sonkukra Bhojpur, P.S.-Masaurhi, District-Patna.

... .. Petitioner/s

Versus

1. The Chairman, Nagar Parishad, Masaurhi, Patna.
2. The Chief Councillor, Nagar Parishad, Masaurhi, Patna.
3. The Executive Officer, Nagar Parishad Masaurhi, Patna

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Banwari Sharma, Advocate Mr. Shiv Kumar, Advocate
For the State	:	Mr. Kinkar Kumar, S.C.-9 Mr. Yogesh Kumar, A.C. to S.C.-9
For Nagar Parishad, Masaurhi:		Mr. Nagendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 25-08-2022

Heard learned counsel for the petitioner as well as the learned State Counsel.

2. The facts admitted and crystallized in the earlier writ proceedings at the behest of the petitioner, in CWJC No.8526 of 2014 are that he was accused of taking bribe of Rs.2,800/- and based thereon, Vigilance P.S. Case No.55 of 2007 was registered.

3. The authorities on basis of some preliminary enquiry report have dismissed the petitioner from service, which dismissal was without following any procedure in accordance with law and was held to be unsustainable.



4. The order of dismissal dated 07.05.2008 and the order passed by the appellate authority dated 12.02.2014 were both set aside and the petitioner's writ petition was allowed.

5. The said position was affirmed by the Division Bench in the LPA filed by the respondent-Nagar Parishad in L.P.A. No.1317 of 2017. The approval of the Division Bench was with liberty to the respondent to pass appropriate order in accordance with law after conducting a departmental enquiry.

6. The issue in the instant writ proceedings, however, is petitioner's claim for consequential benefits on account of quashing of the order of punishment dated 07.05.2008.

7. It is also an admitted position that for the period during which the petitioner was under suspension and being subjected to the proceedings, he has been paid his subsistence allowance.

8. Due to quashing of the order of punishment by the writ Court, the petitioner was entitled to the fruits of the order being the consequential benefits on account of his salary, which he has been deprived by virtue of illegal order of termination. Legality of termination order and the appellate order has been tested by this Court up to the Division Bench. Still authorities have denied the petitioner payment of consequential benefits.



9. The Respondent-State Counsel has placed reliance on a decision of the Apex Court in the case of ***State of Uttar Pradesh Vs. Rajit Singh***, reported in ***2022(2) PLJR (SC) 196***. Reference is made to paragraph 8 of the said judgment, which has taken note of in the decision of Apex Court in the case of ***Chairman, Life Insurance Corporation of India and Ors. vs. A. Masilamani***, reported in ***(2013) 6 SCC 530***.

10. From bare perusal of the judgment relied upon by the State Counsel, it is apparent that the facts are totally at variance with the instant proceedings where the illegality of the order of termination has been expressly held by the Court up to the Division Bench and it is only the consequential benefits, for which the petitioner has now been dragged in the instant proceedings due to inaction on the part of the respondents to make payment of the due and admissible benefits arising out of the petitioner's earlier litigation.

11. The departmental order in compliance of the orders passed in the writ proceedings came to be issued only after the petitioner was compelled to resort to contempt proceedings in M.J.C. No.3414 of 2017.

12. Having regard to the limited jurisdiction of the contempt proceedings, this Court vide order dated 19.02.2020



passed in the contempt proceedings, had allowed the petitioner liberty to file a fresh writ petition, if salary and other emoluments had not been paid to the petitioner.

13. The authorities in the instant proceedings have apparently generated unwanted litigation and have compelled the petitioner to again approach the Court for due consequential benefits even after a Division Bench of this Court has upheld the decision passed in CWJC No.8526 of 2014 wherein the dismissal order dated 07.05.2008, and appellate order dated 12.02.2014 have been declared illegal.

14. The writ application is thus allowed. The authorities are directed to pay the petitioner his due salary and other emoluments for the period during which he has been deprived by virtue of the proceedings leading to passing of the illegal order of punishment dated 07.05.2008, along with details of calculation in support of the amounts paid. Let the same be paid to the petitioner within three months.

15. This Court would consider it appropriate to impose a cost of Rs.5,000/- (Five thousand), also payable to the petitioner, along with his dues, in terms of this order.

(Madhuresh Prasad, J)

PNM

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.

