

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.7 of 2022

In
Civil Writ Jurisdiction Case No.10733 of 2021

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Baby Kumari @ Bebi Kumari, Wife of Late Upendra Kumar Singh, resident of Raghuwar Nagar, Bagha, P.S.-Lohiya Nagar, District-Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Muzaffarpur.
4. The Inspector General of Police, Darbhanga.
5. The Deputy Inspector General of Police, Tirhut Range, Muzaffarpur.
6. The Senior Superintendent of Police, Muzaffarpur.
7. The Superintendent of Police, Vaishali at Hazipur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Prashant Sinha, Advocate
For the Opposite Party/s :	Mr.Prabhat Kumar Verma(AAG 3)
	Mr. Saroj Kumar Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

ORAL ORDER

5 08-09-2022 The present review petition is in respect of para 3 of order dated 21.12.2021 passed in CWJC No. 10733 of 2021.

Learned counsel for the review petitioner submitted that review petitioner was dismissed from service on 09.03.2014 and it was set aside on technicality. In the result, respondents proceeded to pass order deemed to be under suspension w.e.f. date of dismissal on 20.06.2019.



In this backdrop, question for consideration is whether review petitioner is entitled to enhanced subsistence allowance or not ?

Rule 10(1) of Bihar Government Servant (Classification Control and Appeal) Rules, 2005 is relating to subsistence allowance during suspension. Rule 10(1) reads as under:-

“10. Subsistence allowance during suspension - (1) A Government Servant under suspension or deemed to have been placed under suspension shall be entitled to receive a subsistence allowance an amount equal to the half average pay and in addition, dearness allowance admissible on such half pay :

Provided that where the period of suspension has exceeded twelve months, the authority, who has made such order of suspension, shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of first twelve months as follows:-

(i) the amount of subsistence allowance may be increased by such a suitable amount, which shall not be exceeding fifty per cent of the subsistence allowance admissible during the period of the first twelve months, if in the opinion of the said authority, the period of suspension has been prolonged for which, for reasons to be recorded in writing, the Government Servant is not responsible.

(ii) the amount of subsistence allowance may be reduced by such a



suitable amount which shall not be exceeding fifty per cent of the subsistence allowance admissible during the period of first twelve months, if, in the opinion of the said authority, the period of suspension has been prolonged, for which, for reasons to be recorded in the writing, the Government Servant is responsible.

(iii) the rate of dearness allowance will be based on the rates increased or, the reduced amount, as the case may be, of subsistence allowance admissible under sub-clause (i) or sub-clause (ii) of this Rule :

Provided further that the Government Servant shall be entitled to receive subsistence allowance only for such period when he is actually present at the headquarters during the suspension period. He shall be required to mark his attendance in the attendance register meant for such Government Servant:

Provided further that since the headquarters cannot be fixed for the period of custody, therefore marking of such attendance shall not be required for the period of custody.”

Question of payment of enhanced subsistence allowance is warranted only for such of those cases where there is a prolonged disciplinary proceedings and with co-operation of the Government servant in the departmental enquiry. Such circumstances is not found in the present case for the reasons that he was initially placed under suspension and subjected to disciplinary proceedings and it was concluded in imposition of



penalty of dismissal from services on 09.03.2014 and it was set aside and further enquiry has been ordered while ordering deemed suspension on 20.06.2019.

In terms of judicial pronouncements, further enquiry or enquiry from the defective stage if the same is not completed within one year from 20.06.2019, in that event, if review petitioner cooperates in the departmental enquiry he is only entitled to enhanced subsistence allowance from 20.06.2020 onwards and not otherwise. In this regard disciplinary authority is hereby directed to take note of as to whether review petitioner is entitled to enhanced subsistence allowance w.e.f. 20.06.2020 onwards. If he is entitled the same shall be extended to him in accordance with law.

Accordingly, the review petition stands disposed off.

(P. B. Bajanthri, J)

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