

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2805 of 2022

Om Prakash Prasad Son of Sri Parma Prasad Resident of Village- Hasan Purwa, P.S. Andar, District- Siwan. At present Headquarter is fixed at Purnia Divisional Commissioner Office.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
2. The Joint Secretary, Department of General Administration, Government of Bihar, Patna.
3. The Under Secretary, General Administration Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Akhilesh Dutta Verma, Advocate
For the Respondent/s	:	Mr. Manish Kumar (GP 4)

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

Date : 03-03-2022

Heard learned counsel for respective parties.

Learned State counsel accepts notice for respondents.

Learned counsel for the petitioner is hereby directed to furnish a copy of the petition to learned counsel for the State if it not already furnished.

In the instant petition, petitioner has prayed for the following relief(s):-

“For issuance of a writ in the nature of mandamus directing the respondents to revoke the suspension order of the petitioner vide memo No-16538 dated 19.12.2018 (Annexure- 1) issued under the signature of Under Secretary department of General Administration, Government of Bihar,



whereby and where under the petitioner was suspended under Rule 9(1) and Sub-Rule (C) and further Rule-2 and Sub Rule-(Ka) of Bihar Servant Classification Control and Appeal Rule 2005 which is continuing on and from 17.11.2018 and also for enhancement of subsistence allowance at the rate of 75 % after expiry of one year of Suspension i.e. come to the effect on and from 18.11.2019 and for any other relief or reliefs, order or orders, in the nature of writ/ command/ direction in the facts and circumstances of the case.

Short question for consideration is whether the petitioner is entitled for revocation of his suspension order dated 19.12.2018 and further he is entitled to enhance subsistence allowance or not? In this regard, the petitioner is stated to have submitted a number of representations on 16.08.2019, 20.12.2019, 13.12.2021 and 31.12.2021 vide Annexure-2, 4 and 5 series respectively.

The petitioner has been placed under suspension on the allegations that he is involved in an allegation of demand and acceptance of illegal gratification. Charge-memo has been issued and it is pending consideration. Till date neither suspending authority has revoked the suspension nor the disciplinary authority has concluded the disciplinary proceedings.

The concerned suspending authority is hereby directed to examine the representations of the petitioner whether the petitioner is entitled for revocation of his suspension or not and en-



hanced subsistence allowance. Time and again, Hon'ble Apex Court deprecated the prolong suspension, the same shall be taken note of and decide in passing detailed order as to whether the petitioner is required to be remained on suspension or revocation of suspension is warranted or not? Further, subsistence allowance issue be considered, if the petitioner is entitled in that event enhanced subsistence allowance shall be paid from the date of its due. The above exercise shall be completed within a period of three months from the date of receipt of this order. Concerned respondent may also take note of Apex Court's decision, viz., **Ajay Kumar Chaudhary vs. Union of India** reported in **(2015) 7 SCC 291**.

With the aforesaid observations, the present writ petition stands disposed off.

(P. B. Bajanthri, J)

Vikash/-

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

