

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15 of 2018

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Bachcha Rai Son of Late Ramadhar Rai Resident of Village - Safari, P.S. - Ekma, District - Chapra.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The Special Secretary, General Administration Department, Govt. of Bihar, Patna.
4. The Deputy Secretary, General Administration Department, Govt. of Bihar, Patna.
5. The Under Secretary, General Administration Department, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Siya Ram Shahi Mrs. Shally Kumari, Adv
For the Respondent/s	:	Mr.Sanjay Kumar Ghosarvey, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 29-08-2022

Heard learned counsel for the petitioner and
learned counsel for the State of Bihar.

2. The petitioner had earlier approached this Court challenging the office order dated 04.04.2006, cancelling his appointment on the post of Assistant with effect from his initial date of appointment but not recovering the emoluments received by the petitioner.

3. The order was assailed by the petitioner before this Court in CWJC No. 5758 of 2006.



4. This Court, having considered the matter, observed that another appointment, similarly made as the petitioner, was also inquired into by the authority; and another person was imposed with a lighter punishment under order bearing no. 585 of 22.07.1999. It was in this circumstance that the Court came to an opinion that different treatment was meted out to the petitioner *vis-a-vis* the person in whose respect the lighter punishment order dated 22.07.1999 was passed.

5. Finding a case of discrimination, this Court quashed the order cancelling the petitioner's appointment dated 04.04.2006 and remitted the matter back to the Secretary for passing an order in light of the office order dated 22.07.1999 passed in respect of the other similarly situated person (Sri Ravishankar). The Court while disposing of the petitioner's writ petition specifically held that the period between the termination till date of passing of the Court's order shall be deemed as continuity of service for the purpose of pension but without back-wages applying the principle of "No Work No Pay".

6. The petitioner, thereafter in compliance with the Court's order passed in CWJC No. 5758 of 2006, was communicated an office order dated 28.08.2014 whereby he was visited with the punishment of censure and withholding of three



increments with cumulative effect. Normally this would put an end to the matter.

7. In the instant case, however, subsequently the authorities have come out with another order dated 14.11.2017 whereby and whereunder the period of suspension in between 23.08.1997 to 23.04.2000 has been treated as break in service.

8. The petitioner is aggrieved by such treatment on account of the consequential deprivation in terms of length of service for various periods.

9. Specific query has been made to the State Government; as to under which provision the authority has passed the order?

10. During arguments the provisions contained under Rule 13 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'CCA Rules') are referred to by the parties. The same is in respect of the treatment of service on reinstatement and admissibility of pay and allowances where dismissal, removal or compulsory retirement is set aside by court of law.

11. In the instant case the cancellation of petitioner's appointment was set aside under order dated 29.11.2007. After the said order passed by this Court, the authorities did not pass



any order under Rule 13 of CCA Rules; and issued a fresh punishment order dated 28.08.2014 imposing the punishment as noted above.

12. The impugned order, purporting to treat the period of suspension prior to the Court's order dated 29.11.2007, as break in service is clearly unsustainable on bare reading of Rule 13 of the CCA Rules. The impugned order apparently does not fall either under Rule 13(1), 13(2) or Rule 13(3).

13. This Court would observe so, since the Court under order dated 29.11.2007 had not interfered with the conclusion of the petitioner's guilt. It is considering the discrimination in award of punishment that the order dated 04.04.2006 cancelling the petitioner's appointment was set aside.

14. An additional aspect of the matter is that the impugned order itself assumes penal proportions in as much as the same is having consequence of lessening the petitioner's length of service. The order is also not preceded by any exercise in compliance with the principle of natural justice and for that reason also, the order appears to be unsustainable. The impugned order dated 14.11.2007 for the reasons indicated above is hereby quashed. Writ petition is allowed.

15. The petitioner would be entitled to be paid



consequential benefits in accordance with law on account of the
quashing of impugned order dated 14.11.2007.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.09.2022
Transmission Date	NA

