

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10456 of 2020

Prabhash Kumar Son of Late Mahesh Chandra Das Resident of Village-
Nawabganj, P.S.- Manihari, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar Through Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary General Administration Department, Govt. of Bihar, Patna.
3. The Principal Secretary Revenue and Land Reforms Department cum-
Additional Departmental Enquiry Commissioner, Bihar, Patna cum-
Conducting Officer.
4. The Additional Secretary General Administration Department, Govt. of Bihar, Patna.
5. The Divisional Commissioner Patna Division, Patna.
6. The District Magistrate Bhojpur at Ara.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mithilesh Kumar Rai, Advocate
For the Respondent/s : Mr. Sheo Shankar Prasad, SC 8

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

Date : 25-01-2022

The matter is heard via video conferencing due to
circumstances prevailing on account of the COVID-19 pandemic.

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

“That this is an application for issuance of a writ
in the nature of certiorari to quash the resolution of General
Administration Department, Govt. of Bihar, Patna as
contained in Memo No. 15885 dated 05-12-2018, issued under
the signature of the Additional Secretary of the Government
whereby and whereunder the petitioner has been said to be
suspended with effect from the date of resolution i.e. 05-12-
2018 in terms of Rule 9(1)(Ka) of CCA Rule, 2005 and further
has been said to pay the subsistence allowance in terms of



Rule 10 of the said Rule and further for issuance of a consequential writ in the nature of mandamus commanding and directing the respondents not to give effect to the impugned order in any manner save and except as per permissible in the eye of law as also for issuance of another writ of mandamus commanding and directing the respondents to make payment of the full salary to the petitioner for the period from 22-08-2017 to 04-12-2018 and payment of subsistence allowance @ 75% with effect from 04-10-2019 in terms of relevant provision provided in CCA Rule 2005 and/or to pass such any other order/orders for which the petitioner is entitled to.”

3. Petitioner was placed under suspension with effect from 05.12.2018. Petitioner’s grievance is that he has not been paid subsistence allowance and order of suspension was not revoked and further enquiry has not attained finality. In the light of these facts and circumstances, the petitioner is entitled to subsistence allowance during the suspension period, therefore, the same shall be paid in accordance with law.

4. The Suspending Authority is hereby directed to undertake review of suspension in the light of Rule 9 (1) (Ka) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 read with ancillary provisions and further to take note of Apex Court decision in the case of *Ajay Kumar Choudhary Vs. Union of India through its Secretary and another* reported in **(2015) 7 SCC 291** and undertake to review of suspension within a period of one month from the date of receipt of this order.



5. The petitioner is entitled to regulate his suspension period and payment of salary only as and when disciplinary proceedings or criminal proceedings whichever is pending is completed, therefore, the petitioner is not entitled for the regulation of suspension period and full salary from the date of suspension. If the petitioner is not eligible for any arrears of salary for the other than suspension period, in that regard, necessary speaking order shall be passed and communicated to the petitioner. If petitioner is otherwise eligible for arrears of salary during the period from 22.08.2017 to 04.12.2018, the same shall be calculated and disbursed.

6. With the above observations, writ petition stands disposed off.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	28.01.2022
Transmission Date	

