

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1468 of 2022

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Santosh Kumar Son of Late Shyamlal Prasad Resident of Village-Daudnagar,
P.S.-Daudnagar District-Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Works Department, Bihar, Patna.
2. The Engineer-in-Chief, Rural Works Department, Bihar, Patna.
3. The Under Secretary, Rural Works Department, Bihar, Patna.
4. Deputy Secretary, Rural Works Department, Government of Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Indu Bhushan, Advocate
For the Respondent/s : Mr. Akash Raj, A.C. to G.A.-5

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 07-10-2023 Heard learned counsel for the petitioner and the

learned State counsel.

2. The short issue which arises for consideration is whether there was an occasion for enhancement of the petitioner's subsistence allowance having regard to the fact that the suspension order had continued for beyond twelve (12) months. The suspension order is dated 06.12.2017. The petitioner has been subjected to a proceeding by a charge memo. His application for enhancement of the subsistence allowance under Rule 10(i) of the Bihar C.C.A. Rules, 2005 has been rejected by an order dated 02.03.2022.

3. Learned counsel for the petitioner submits that the



order does not manifest any consideration in terms of the provisions.

4. Learned State counsel submits that it is apparent from the order itself that after obtaining opinion of the department, the petitioner's application has been rejected.

5. On a consideration of the rival submissions, this Court would find that the order dated 02.03.2022 (Annexure-5) which has been impugned by filing I.A. No. 1 of 2023 is unsustainable as it shows no consideration of the petitioner's claim for enhancement of subsistence allowance in terms of Rule 10(i) of the C.C.A. Rules, which reads as follows:

“10(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.”

6. It is evident from the plain reading of the order that the same does not show any consideration as to whether the suspension has been prolonged for reasons attributable to the petitioner. In absence of any such finding, the impugned order dated 02.03.2022 is unsustainable. The same is hereby quashed. The matter is remanded to the newly added Respondent No. 4



for considering the petitioner’s claim under Rule 10(i) of the Rules afresh and pass a reasoned and speaking order in accordance with law and paying the dues, if found admissible, within eight weeks from the date of receipt/production of a copy of this order.

7. The writ application is allowed.

(Madhuresh Prasad, J)

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