

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3196 of 2022

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Pankaj Kumar Jha, S/o Late Kamal Narayan Jha, Resident of Rupam Utsav Hall, Mithila Colony, Nasriganj, Danapur, Post- Bataganj, P.S.- Danapur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna, Old Secretariat, Patna.
2. The Additional Chief Secretary, Department of Co-operative, Govt. of Bihar, Patna, Vikas Bhavan, Baily Road, Patna.
3. The Joint Secretary-cum-Registrar, Cooperative Societies, Department of Co-operative, Govt. of Bihar, Vikas Bhavan, Baily Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Avanindra Kumar Jha
For the Respondent/s : Mr. Subodh Kumar, AC to SC-26

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 08-09-2023 1. Heard the learned counsel for the petitioner and
learned counsel for the respondents.

2. The petitioner was suspended on 19-8-2017 on various counts, including lodging of a criminal case. The petitioner has retired on 31-7-2022, leading to revocation of suspension with effect from that date. The departmental proceeding, however, is still continuing.

3. It is the petitioner's grievance that the suspension continued for a period more than 12 months, i.e., after August 2018, till 31-7-2022. For this period, he submits that he is entitled to enhancement of the subsistence allowance in terms of



Rule 10(1)(i) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for short 'Bihar (CCA) Rules'), which reads as follows:

"10. Subsistence allowance during suspension.-(1) ...

(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.

..."

4. Petitioner has made a specific claim for enhancement of the subsistence allowance by representation, copy of which is Annexure 15 series to the writ petition. He submits that under similar circumstances, the subsistence allowance of another person has been enhanced, a notification to this effect was issued in favor of the person with whom he is claiming parity on 6-3-2020, and a copy of the same is Annexure-16 to the writ petition.

5. It is not in dispute that the prayer no. 1 of the writ application has become infructuous.



6. Since the limited grievance of the petitioner is non-consideration of his claim for enhancement of subsistence allowance for the above noted period, there is no issue pending adjudication in the instant proceedings, as order has to be passed under Rule 10(1)(i) of the Bihar (CCA) Rules by the respondent No. 2.

7. The writ application, therefore, need not be kept pending and is disposed of with a direction to the respondent No. 2 to take a final decision on the petitioner's claim by reasoned and speaking order within three (3) months from the date of the receipt/production of a copy of this order.

(Madhuresh Prasad, J)

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