

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3469 of 2022

=====

Pramod Kumar Das Son of Late Sri Ram Nath Das, Panchayat Secretary, Motihara (Taluka) Block-Kishanganj, District-Kishanganj, At Present resident of Lohar, Patti, Police Station-Kishanganj, District-Kishanganj.

... .. Petitioner

Versus

1. The State of Bihar through the Secretary, Panchayati Raj, Government of Bihar, Patna.
2. The District Magistrate, Kishanganj.
3. The District Panchayat Raj Officer, Kishanganj.
4. The Sub Divisional Officer, Kishanganj.
5. The Deputy Development Commissioner-Cum-Chief Executive Officer, District-Kishanganj.
6. The Block Development Officer, Thakurganj, District-Kishanganj.

... .. Respondents

=====

Appearance :

For the Petitioner/s : Mr.K.N. Jamuar, Advocate

For the Respondent/s : Mr.Prabhat Ranjan, AC to GP-6

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 27-04-2023 Let the defect be ignored.

2. This writ application has been filed seeking an appropriate writ/ direction to the respondents to pay the arrears of outstanding subsistence allowance of the petitioner for the period November, 2018 to 30.07.2019.

3. It is the case of the petitioner that he was appointed as Panchayat Secretary. While serving, he was arrested in connection with Thakurganj P.S. Case no. 261 of 2013. As a result of his arrest, he was placed under suspension with effect from the date of his arrest. The petitioner was served with office order vide Memo No. 590 dated 12.12.2014 (Annexure '2') by



which the petitioner was sanctioned subsistence allowance in terms of Rule 10(3) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as the 'Rules of 2005').

4. It is stated that the petitioner was granted bail in the said case by this Court whereafter he was sought to be roped into another case being Thakurganj P.S. Case No. 188 of 2014. The petitioner moved this Court for grant of anticipatory bail in Cr. Misc. No. 35767 of 2015 in which this Court granted him interim protection and stayed the criminal proceeding. It is stated that the petitioner submitted his representation vide Annexure '4/A' and Annexure '5' to the writ application for acceptance of his joining whereupon the District Magistrate, Kishanganj directed the Block Development Officer, Thakurganj to ensure the presence of the petitioner in the Block Office till the fixation of the Headquarter. It is stated that the petitioner represented vide Annexures '8' and '9' to the writ application for revocation of his suspension but when the said representations were not considered, the petitioner moved this Court in CWJC No. 192 of 2019 with a prayer to direct the appropriate authority to revoke the order of suspension. In the said writ application, a direction was issued to the District



Magistrate, Kishanganj to consider the representation of the petitioner whereupon vide Annexure '11' to the writ application, the District Magistrate, Kishanganj revoked the order of suspension and ordered the petitioner to join in the office of the Block Development Officer, Kishanganj.

5. It is submitted that the suspension of the petitioner was revoked vide office order dated 31.07.2019 (Annexure '11'). Till this period, the petitioner was not paid his subsistence allowance. In this regard, several representations have been filed by him but the respondent authorities are not paying the subsistence allowance.

6. Learned counsel for the State submits that a counter affidavit has been filed on behalf of respondent nos. 2 to 6, however, the same is not available on the record. Learned counsel for the State has made available his copy for perusal from which it appears that the respondents are admitting the arrears of outstanding subsistence allowance of the writ petitioner for the period November, 2018 to 30.07.2019 but the only plea is taken that due to lack of allotment of fund, it is difficult to pay the arrears of outstanding subsistence allowance of the writ petitioner.

7. In the facts of the present case, this Court is of the



considered opinion that the respondent authorities have acted illegally and arbitrarily in not paying the subsistence allowance of the petitioner. The plea that there is a lack of allotment of fund cannot be said to be a bonafide plea.

According to Rule 10(3) of the Rules of 2005, in case of deemed suspension the subsistence allowance is to be paid by the same establishment where government servant was posted at the time of detention. This Court, therefore, directs that the authority, whosoever may be competent to allot the funds for grant of subsistence allowance shall ensure that the allotment is made within a period of one month from the date of receipt/production of a copy of this order and the petitioner is paid his subsistence allowance which has remained pending for about four years together with interest at the rate of 6% per annum. The interest amount shall be recovered from the pocket of the erring officials because of whom laches or default the allotments were made for all this time. Let the entire payment be made to the petitioner within six weeks from today.

8. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

tusharika/-

U			
---	--	--	--

