

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23682 of 2012

Yogendra Kumar Jaiswal S/O Late Jagannath Prasad Resident Of Shivpuri, House No. 27,
P.S. Shastri Nagar, Patna- 800023

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors Bihar, Patna
2. Principal Secretary, Department Of Health, Bihar, Patna
3. Secretary, Department Of Health, Bihar, Patna
4. Additional Secretary, Department Of Health, Bihar, Patna
5. Director In Chief, Department Of Health, Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Hemant Kumar, Adv. Mr. Chaitanya Krishna, Adv.
For the State	:	Mr. Santosh Chandra Bhaskar, AC to GP 11

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 02-01-2023

1. The petitioner prays that he should be paid the subsistence allowance for the period from 24.10.2007 to 04.10.2009 and from 09.04.2010 to 31.01.2012 that is the period during which he remained under suspension.

2. Learned counsel has informed this Court that the enquiry which was initiated has resulted in the petitioner being convicted of the charges and his entire pension was withheld by the Department. Against the said order of withholding the pension, dated 06.05.2013, the writ petition was preferred bearing C.W.J.C. no. 21768/2013 which was allowed on 12th July 2018. Against the said order, L.P.A. has been preferred which is pending before the Division Bench.

3. Learned counsel submits that in all circumstances the petitioner was entitled to receive the subsistence allowance at least. I



have considered the submission. While it is true that a person who is suspended is entitled to receive subsistence allowance during the suspension period, however if he has already been reinstated and enquiry is pending, the payment of the intervening period would be subject to the final decision in the departmental enquiry. A separate order is required to be passed for the period of suspension by the Respondent authorities. In the present case, as the petitioner was found guilty of the charges and was punished which is pending before the Division Bench. Till a final verdict is given by the Division Bench, it would be inappropriate to direct the amount to be paid for the suspension period including the subsistence allowance. The contention of learned counsel that the issue is independent of the departmental enquiry decision is fallacious.

4. The writ petition is therefore dismissed at this stage with liberty to file fresh petition or to take up the matter before the Division Bench in L.P.A. itself.

(Sanjeev Prakash Sharma, J)

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