

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13824 of 2022

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Sanjeet Kumar Ravidas Son of Late-Santan Das @ Santan Ravdas, Resident
of -Patsa, PO and PS-Bihta, District-Patna, Bihar.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Department of Home, Bihar Patna.
2. The District Magistrate, Patna.
3. The Senior Superintendent of Police, Patna.
4. The Sub-Divisional Officer Danapur, Patna.
5. The Block Development Officer, Patna.
6. The Circle Officer, Bihta, Patna.
7. The S.H.O., Bihta, Patna.
8. I.O. Bihta P.S. Case No. 13 of 2020, Police Station-Bihta, District-Patna, Bihar.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Ravi Kant Kumar, Advocate
For the Respondent/s : Mr.Fazle Karim, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 04-05-2023 Learned counsel for the petitioner submits that he has removed all the defects. So far as the typed copy of page nos. 14, 15 and 22 are concerned, he is unable to produce a better copy, hence these defects be ignored at his risk.

Let the defects be ignored at the risk of the petitioner.

Heard learned counsel for the petitioner and learned counsel for the State.

Petitioner, in the present case, is seeking the following reliefs:-

“(A) To issue Writ to certiorari, Order or Direction Quashing
the order contained in Letter No. 11-01/2020 – 3059/Gen/



Patna, dated 22/08/22 issued by Additional District Magistrate, Patna, district – Patna (Annexure-4), whereby the petitioner has been put under in contemplation of department proceeding and C.O. Bihta, District – Patna has directed frame charge but as yet departmental proceeding has been not yet initiated memo of charge has not been served.

(B) To issue writ of Mandamus and directed to respondents authority to pay dues subsistence allowance to the petitioner, which is not being paid to his.

(C) For proper action against the responsible respondents in which they intention delay and playing to collapse State Govt. Policy with others occasions and Manner with ignoring the Provision of Law under Bihar Service Code and Bihar Police Manual.

(D) For any other/s Relief/s petitioner may be entitled to.”

Learned counsel for the petitioner submits that the petitioner was appointed as Chowkidar and while serving on the said post he was served with an order of suspension by the District Magistrate, Patna vide memo no. 14-01/2020/445 /Gen/Estt. Dated 17.02.2020 whereby and whereunder the petitioner was placed under suspension with retrospective effect on 10.01.2020 in contemplation of a departmental proceeding on the charges that he was in jail since 02.01.2020 to 09.01.2020 in connection with Bihta P.S. Case No. 13 of 2020 for the offence alleged under section 37(C) of Bihar Prohibition and Excise Act, 2018.

Learned counsel for the petitioner submits that



petitioner has been placed under suspension with retrospective effect which is not permissible. It is further submitted that the petitioner was placed under suspension in contemplation of a departmental proceeding but in this case the memo of charge was not served for about three years, therefore, no departmental proceeding was initiated against him. In the meantime, the petitioner has not been paid his subsistence allowance which is causing huge financial crisis for him and his family.

Learned counsel has referred letter no. 14-01/2020 / 3059/Gen/dated 22.08.2022 (Annexure '4' to the writ application) by which the Additional Collector (General), Patna has reminded the Circle Officer, Bihta that the petitioner has not been served with "Prapatra Ka".

Learned counsel submits that pursuant to the Annexure '4', the petitioner has been served with a memo of charge.

A counter affidavit has been filed on behalf of respondent no. 2, 4 & 6. The counter affidavit is completely silent in response to the submissions made on behalf of the petitioner. There is no explanation as to why no memo of charge was served upon the petitioner for about three years and he was not paid his subsistence allowance.



In the given facts and circumstances of the case and the pleadings available on the record, this Court would conclude that the petitioner has been arbitrarily kept under suspension *de hors* the rules which requires service of memo of charge within a period of 90 days from the date of his suspension. He was not paid his subsistence allowance for all these years and now he is being compelled to face a departmental proceeding.

This Court, having held that the suspension of the petitioner for three years without service of memo of charge was not in accordance with law, directs the competent authority to pay the entire salary of the petitioner for the period beyond 90 days from the date of his suspension till the date of submission of the service of the charge-sheet, for the period thereafter the respondents shall continue to pay the subsistence allowance to the petitioner. If the competent authority still desires to keep him under suspension, the disciplinary proceeding shall continue against the petitioner only after payment of salary for the aforesaid period and the subsistence allowance as directed above, to the petitioner within a period of two months from today.

It will be open for the competent authority to fix the responsibility on the erring officials because of whose fault the



memo of charge was not served upon the petitioner for about three years and at the same time, he was deprived of his subsistence allowance causing huge hardship to him and his family.

This Writ Application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J.)

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