

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15584 of 2022

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Lalita Devi wife of Mokeshwar Prasad Simli, Nawabganj, Patna City, Patna,
Bihar- 800008, UIDAI Aadhar No. 596572790215, Mobile No. 9122861257.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary Old Secretariat, Patna- 800015.
2. The Director General of Police, Sardar Patel Bhawan, Bailey Road, Patna- 800022.
3. The Deputy Inspector General of Police, Begusarai, Bihar Pin- 851101.
4. The Superintendent of Police, Khagria 2nd Floor, Collectorate Building, Koshi College Road, Khagaria, Bihar, Pin- 851204.
5. The Sub Divisional Police Officer, Gogri, District Khagaria, Bihar, Pin- 851202.
6. The Inspector of Police, Gogri, District Khagaria, Bihar, Pin- 851202.
7. The SHO Cum Sub Inspector of Police, Sri Ranjit Kumar, Gogri Police Station, District Khagaria, Bihar, Pin- 851202.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bishwajeet Kumar, Advocate
For the State	:	Mr. Md. N.H. Khan, SC- 1

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 14-09-2023 1. Heard learned counsel for the petitioner and
learned counsel for the State.

2. Learned counsel for the petitioner submits that
suspension order dated 21-04-2022, lapsed after three months.
Upon completion of three months from the date of suspension,
the Authority was required to pass appropriate order either by
revoking the suspension or continuing it, but with specific
reasons in terms of Rule 9 (7) of the Bihar Government Servants



(Classification, Control & Appeal) Rules, 2005.

3. The said submission has to be viewed, keeping in background the fact that within four months from the date of suspension, the petitioner has been visited with a charge memo, which fact is admitted. The charge memo is dated 08-08-2022. After lapse of three months. There is no material on record to show that any application was received in the office of the authority on behalf of the petitioner for revocation of the suspension, even though, three months period lapsed on 20 July, 2022.

4. The Court, therefore, having regard to the decision of the Full Bench in the case of ***State of Bihar v. Gyan Kumar Ram***, reported in **(2009) 4 PLJR 272 (FB)** would find that the petitioner, in view of the submission of charge memo, prior to any application having been made for revocation of suspension, cannot claim that the suspension be revoked. The Division Bench has clearly held that the revocation of suspension upon lapse of three months will not be automatic, and there has to be application. Paragraph No. 20 of the decision of the Full Bench, relevant to this case, is being reproduced:-

“(20.) In view of the above analysis, our conclusions are as follows:-

(a) The time frame contemplated in Rule



9(7) is applicable only when an order of suspension is passed in contemplation of a disciplinary proceeding. On the other hand, if order of suspension is passed by taking into account the other eventualities contemplated in Rule 9, the time frame is not applicable and the order of suspension continues until it is revoked or deemed to be revoked under any of the provisions.

(b) Where an order of suspension is passed in contemplation of a disciplinary proceeding, the charge-sheet is required to be filed within a period of three months from the date of issuance of such order. On failure to frame charge-sheet within the stipulated period, the concerned employee gets a right to claim that he should be reinstated in service and if any such application is filed, the order of suspension is bound to be revoked.

(c) Where the employee fails to exercise such right of being reinstated by making necessary application, there is no embargo for the competent authority to pass any order extending the suspension for reasons to be recorded in writing and there is no requirement that such an order is bound to be passed before the expiry of three months and in a given case, such an order is passed even after the expiry of three months, provided the employee in the meantime has not exercised his right of being reinstated.



(d) Similarly, the right of the employee to get reinstated is defeated if before he makes an appropriate application the charge-sheet is framed.

(e) Where the competent authority passes an order renewing the suspension, charge-sheet is required to be framed within such further extended period which cannot be more than four months from the date of expiry of the original three months and if no charge-sheet is framed, the order of suspension stands revoked even without passing of any formal order. At that stage, of course, the authority is required to pass appropriate order of re-posting and at any rate, the concerned employee would be entitled to get full salary.”

5. The writ petition is devoid of merit and is dismissed.

(Madhuresh Prasad, J)

Raj kishore/-

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