

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23611 of 2019

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Shiva Narayan Jha, son of Late Sundar Shyam Jha alias Shyam Sundar Jha, resident of Village- Sukhsena, P.S.- Barhara Kothi, District- Purnea, presently residing in Mohalla- New Sipahitola in Purnea town, P.s.- Khajanchi Hat, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Collector and District Magistrate, Kishanganj, District- Kishanganj.
3. The Sub. Divisional Officer, Kishanganj Sub. Division, District- Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Gyanand Roy, Advocate
For the Respondent/s : Mr.Saroj Kumar Sharma, AC to AAG 3

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 27-07-2023

Heard Mr. Gyanand Roy, learned counsel appearing on behalf of the petitioner and Mr. Saroj Kumar Sharma, learned AC to AAG 3 for the State.

2. Learned counsel appearing on behalf of the petitioner submits that the alleged allegation of misappropriation of fund is of the year, 2006 and the petitioner has not been granted financial benefit relating to the period early to it. The petitioner was given financial up-gradation and he is entitled to pay scale of the post of Upper Division Clerk on which he was posted in view of Memo No.3916 dated 30.09.1993 and accordingly, the pay scale applicable to the post is of Rs.1400-2300.



3. The petitioner had filed his representation before the Collector, Kishanganj and the Collector, Kishanganj during the pendency of the present writ petition has passed an order contained in Memo No.187 dated 02.03.2023 disposing of the representation of the petitioner, rejecting the claim of the petitioner.

4. The Collector, Kishanganj must ensure to grant financial benefit as claimed by the petitioner on account of time bound promotion for the period during which no disciplinary proceeding was pending against the petitioner. Law in this regard is well settled in case of *Amresh Kumar Singh & Ors. Vrs. The State of Bihar & Ors.* reported in *2023 SCC Online SC 496*.

5. The facts pleaded show that the disciplinary proceeding was initiated against the petitioner and an order imposing penalty was passed against him. The petitioner had preferred appeal against the order passed by the Disciplinary Authority. The appeal was allowed and the matter was remitted back to the Collector, Kishanganj. It has been submitted that the Collector, Kishanganj is sitting tight over the matter.

6. The petitioner is facing disciplinary action and the charges are of misappropriation of fund while he was posted as Nazir, Thakurganj in the year, 2006. The disciplinary proceeding was initiated in the year, 2006. The District Magistrate, Kishanganj



is directed to pass final order in the disciplinary proceeding in accordance with law preferably within eight weeks and make payment of the retiral dues considering the pay-scale applicable in accordance with law by giving financial upgradation on account of his stagnation on the post.

7. With above observation/direction, the present writ petition is disposed of.

(Purnendu Singh, J)

chn/-

AFR/NAFR	
CAV DATE	
Uploading Date	31.07.2023
Transmission Date	

