

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4619 of 2024

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1. Dhrambir Kumar Son of Ram Krishna Prasad Resident of Village-Sumka P.O.-Amraura, P.S.-tharthari, District-Nalanda.
 2. Shailendra Kumar Choudhary Son of Late Krishan Deo Choudhary Resident of Village and P.O.-Bodhibigha Ramghat, P.S.-Chandi, District-Nalanda.
 3. Amrendra Kumar Ram Son of Jagdish Ram Resident of Village-Tikari Tola, (Shahdulepur) P.O.-Pratappur, P.S.-Hussainganj, District-Siwan.

... .. Petitioner/s

Versus

1. The Employees State Insurance Corporation through the Director General, Employees State Insurance Corporation, Panchdeep Bhawan, CIG Road, New Delhi-110002
2. The Joint Director, (Recruitment), Employees State Insurance Corporation, Panchdeep Bhawan, CIG Road, New Delhi-110002
3. The Additional Commissioner and the Regional Director, Employees State Insurance Corporation, Panchdeep Bhawan, Ashram Road, Ahmedabad (Gujarat)-380014
4. The Regional Director, Employees State Insurance Corporation, Panchdeep Bhawan, Ashram Road Ahmedabad (Gujarat)-330014.
5. The Deputy Director, Employees State Insurance Corporation, Panchdeep Bhawan, Ashram Road Ahmedabad (Gujarat)-330014.
6. The Joint Director I/C. Employees State Insurance Corporation, Sub-Regional Office, ESI Corporation, Vadodara (Gujarat)-395001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar, Advocate
For the Respondent/s	:	Mr.Sudhir Kumar Bijpuria, Advocate
		Mr.Anil Kumar Gupta, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 22-03-2024

In the instant petition, petitioner has prayed for the following relief(s):-



“(i) For issuance of an appropriate direction/s, writ/s, order/s to the respondents for quashing show cause notice dated 18.10.2023 and charge memo served upon the petitioners dated 04.12.2023 in light of direction of the Hon’ble Court passed in CWJC No. 23977/2019 and CWJC No. 22790/2019 dated 06.02.2023 and especially paragraph 20 wherein Hon’ble Court has given liberty to the concerned respondents to resort to disciplinary proceeding under Regulation-11 read with 12 and any other Regulation of Regulations, 1959. Such departmental enquiry shall be initiated and completed within a period of six months from the date of receipt of the order.

(ii) For issuance of an appropriate writ/order/direction to the respondents not to proceed with the departmental proceeding in violation of order dated 06.02.2023 passed by the Hon’ble Patna High Court and during pendency of this writ petition stay the continuation of said proceeding so that matter may not be precipitated in violation of order.

(iii) To pass such other order or orders as your lordships may deem fit and proper in the facts and circumstances of the case as stated herein below.”

2. Learned counsel for the petitioners submitted that initiation of inquiry in the light of the Para 20 of the order dated 06.02.2023, is beyond the time limit stipulated. It is necessary to re-produce Para 20 of the order dated 06.02.2023 passed in CWJC No. 23977 of 2019, and it reads as under:-

“20. The concerned Respondent is hereby directed to extend all monetary



benefits to the petitioners during the intervening period from the date of their termination from service till date, reserving liberty to the concerned Respondents to resort to disciplinary proceedings under Regulation-11 read with 12 and any other Regulation of Regulations, 1959. Such departmental inquiry shall be initiated and completed within a period of six months from the date of receipt of this order.”

3. No doubt, the charge memo issued on 04.12.2023, and it is beyond the time limit stipulated by the Court. The concerned respondents have not sought for extension of time stipulated in Para 20. Petitioners have remedy of filing contempt petition as well as filed Original Application before the Central Administrative Tribunal in the light of contempt of Tribunal under relevant provision and under Section 19 of the Administrative Tribunals Act, 1985 read with the principle laid down by the Hon'ble Supreme Court in the case of **L. Chandra Kumar Vs. Union of India & Ors.** reported in (1997) 3 SCC261 read with the case of **S.P. Sampath Kumar Vs. Union of India** reported in (1987) 1 SCC 124. Central Administrative Tribunal is being is first Court of instance for the Central Government employees and such of those employees with reference to the notification issued by the Central Government in the light of the relevant Section under Administrative Tribunal Act, 1985. Therefore, the present writ petition is not maintainable to the extent that petitioner has not



exhausted the first Court of instance, namely, Central Administrative Tribunal.

4. Accordingly, the present petition stands disposed of, reserving liberty to the petitioners to invoke remedy under contempt of Tribunal application under relevant Rules and under Section 19 of the Administrative Tribunals Act, 1985 before the jurisdiction Central Administrative Tribunal.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

