

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1139 of 2019

Manoj Kumar Singh Son of Bhuneshwar Prasad Singh Resident of V-568,
Vidyapuri, Kankarbagh, Sampatchak, Patna, Lohia Nagar, Bihar

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Police Home Department, Government of Bihar, Patna.
2. The Deputy Secretary Police Home Department, Government of Bihar, Patna
3. The Director General of Police, Bihar, Patna.
4. The Director General of Police (Bagat/Appeal/Welfare/) Bihar, Patna
5. The Assistant Director General of Police (Inspection) Bihar, Patna
6. The Inspector General of Police, Bhagalpur Range, Bhagalpur
7. The Deputy Inspector General of Police, Munger Range, Munger
8. The Superintendent of Police (C) Crime Investigation Department, Bihar, Patna
9. The Superintendent of Police, Begusarai
10. The Sub-Divisional Police Officer Sadar, Begusarai.
11. The Sub-Divisional Police Officer, Baliya, Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava, Advocate
For the Respondent/s : Mr. Md. N.H.Khan , SC-I

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 24-09-2024

Heard Learned Counsel for the petitioner and
Learned Counsel for the State.

2. The present writ petition has been filed for quashing Memo No.7766/Confidential dated 31.12.2013, issued under the signature of Superintendent of Police, Begusarai, contained in Annexure-11. Further prayer has been made for



quashing the Memo No.861 dated 07.04.2014 issued under the signature of Deputy Inspector General of Police, Munger Range, Munger, contained in Annexure-16 of the writ petition, whereby Service Appeal of the petitioner has been rejected. Further prayer has been made to quash Memo No.460 dated 30.01.2014 issued under the signature of Superintendent of Police, Begusarai, by which the suspension order contained in Annexure-7 has been revoked with effect from 31.12.2013 contained in Memo No.113/CR dated 17.01.2014. Further prayer has been made to quash Memo No.4653 dated 13.06.2016 issued under the signature of Deputy Secretary of the Bihar Government, Patna, contained in Annexure-21 and last prayer has been made directing the respondent to make payment of salary and increment for the period from 27.08.2013 to 30.01.2014 which is admissible in the eye of law.

3. Learned Counsel for the petitioner submits that the petitioner was the Sub Divisional Police Officer, Baliya, against whom a disciplinary order has been passed contained in Memo No.7766/Confidential dated 31.12.2013. In the said order it was directed that suspension shall be revoked only after passing of order from the D.I.G. Counsel further submits that the removal of suspension order has been passed vide Memo



No.113/CR dated 17.01.2014 but during the said period, i.e., the order of punishment, the suspension was not removed; rather suspension was removed after 15 days. Counsel submits that he is entitled for the salary and increments for the said period which is necessitated to be counted according to the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as the 'CCA Rules, 2005'.

4. Learned Counsel for the State submits that the punishment order, according to Annexure-11, was stoppage of increment for one year, equivalent to two black mark but no cumulative effect on the increment of salary. It was also indicated that during the suspension period petitioner shall be entitled only for subsistence allowances. It was also directed that suspension shall be revoked only after permission of the authority. Counsel submits that there is no illegality in the said order. He submits that subsequently after 15 days his suspension has been revoked. Counsel for the State submits that the present writ petition has been filed in the year 2018, number of the writ petition is of 2019. He submits that the effect of the punishment is only for one year and after ending the effect the petitioner has filed the writ petition. Therefore, in this view of the matter this writ petition has become infructuous as this writ



petition has been filed after lapse of one year from the date of passing the original order, appellate order and memorial. He submits that the status of the petitioner in between the date of final order to the date of removal of suspension is of suspended employee and, therefore, during this period he is entitled for subsistence allowances only and not entitled for salary.

5. After hearing the argument, it transpires to this Court that Rule 9(6)(a) of Bihar Government Servant (CCA) Rules, 2005 is very much clear and it states as follows:

“9(6)(a). An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent.”

6. The term used in this provision is under this Rule meaning thereby under Rule 9 which deals about order of suspension. It transpires to this Court vide Annexure-11 that the Disciplinary Authority has rightly observed in his order sheet that after granting permission from the Competent Authority (who is Police DIG), suspension shall be revoked and the competent authority has revoked the suspension vide Memo No.113 dated 17.01.2014 with effect from 15.01.2014, meaning



thereby according to the law of the land i.e., Rule 9(6)(a) of the CCA Rules, 2005 the status of the petitioner in between 31.12.2013 to 15.01.2014 is of suspended employee and during this period he is entitled for the subsistence allowances and not for the salary.

7. So far as the contention of the Counsel for the State is concerned that petitioner has moved after lapse of the punishment period, this Court fully agree from the contention of the State and, therefore, not inclined to interfere in any of the decision which has been challenged by the Counsel for the petitioner in the writ petition. But this Court already discussed above that status of petitioner in between 31.12.2013, i.e., the date of order of punishment by disciplinary authority to 15.01.2014 the day on which his suspension has been revoked by the Competent Authority in accordance with the CCA Rules, 2005, mentioned above, his status is like that of the suspended employee and he is entitled for subsistence allowance for the said period only.

8. In that view of the matter, this writ petition is disposed of directing the respondent authorities to make payment during the said period to the petitioner only for subsistence allowances, if not paid, and this Court is not



inclined to interfere in any one of the orders which has been challenged by the petitioner.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.09.2024
Transmission Date	NA

