

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7124 of 2018

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Mohammad Sarwar Afroz Balkhi son of Late Syed Md. Moin Balkhi, resident of Mohalla- Ashraf Nagar Sah Zubair Road, P.S.- Kotwali, District- Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Labour Resources Department, New Secretariat, Patna.
3. The Director, Health Services Employees State Insurance Scheme, Labour Resources Department, New Se
4. The Deputy Director, Health Services, Labour Resources Department, New Secretariat, Patna.
5. The In-charge Insurance Medical Officer of the Dispensary, Employees State Insurance Scheme, Katiha

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sushil Kumar Jha, Adv Mr. Gajendra Kumar Jha, Adv Mr. Bam Bahadur Jha, Adv
For the Respondent/s	:	Mr.Sarvesh Kumar -Gp24 Mr. Manoj Kumar, AC to GP-24 Mr. Anuj Kumar, AC to GP-24

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 20-03-2024 Counsel for the petitioner and counsel for the State

present.

2. This writ petition has been filed against office order dated 07.02.2018 contained in Memo No. 128 dated 08.02.2018 whereby the appeal filed by the petitioner against the punishment order contained in Memo No. 1214 dated 12.11.2015 has been dismissed and punishment for withholding two annual increments with non cumulative effects awarded to the petitioner vide office order no. 25 dated 23.05.2014



contained in Memo No. 397 dated 23.05.2014 has been affirmed.

3. Counsel for the petitioner submits that there was no payment made with regard to the period of suspension except the subsistence allowance. Counsel further submits that petitioner has earlier moved before this Hon'ble Court vide C.W.J.C. No. 10704 of 2014 in which vide order dated 26.11.2014, his punishment order was set aside and liberty granted to the respondent no. 2 to pass fresh order strictly in accordance with law. Counsel submits thereafter that second show-cause has been served upon the petitioner. Petitioner has replied to the second show-cause and final order was passed in which the same punishment has been imposed upon the petitioner which was earlier imposed on him. Counsel submits that appeal was preferred thereafter and the same was also rejected. Counsel submits further that in the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005, a special provision is made under Rule 12 about the treatment of service on reinstatement and admissibility of pay and allowances after dismissal, removal, compulsory retirement from the service as a result of appeal. Counsel submits that though in the present case, punishment order is minor and it is



not the case of dismissal, removal, compulsory retirement from the service but for the period of suspension, no payment has been made except the subsistence allowance whereas according to Rule, petitioner is entitled for more what has been granted to him. Counsel further submits that neither in the original order nor in the appellate order any finding has been made in this regard.

4. Counsel for State on the other hand submits that original order as well as appellate order have passed completely in accordance with law as well taking into consideration the earlier writ petition which was disposed off. He submits that the order of punishment is minor in nature and for minor punishment there is no need even to follow the rules of departmental proceeding. He submits that if petitioner has any grievance, the liberty shall be given to him to file a fresh representation on payment of his suspension/subsistence allowances as under Bihar Government Servant (Classification, Control and Appeal) Rules, 2005.

5. In the light of the submissions made by the parties, this Court hereby grants liberty to the petitioner to file fresh representation before the authority i.e. Respondent No. 3 for his grievance according to Bihar Government Servant



(Classification, Control and Appeal) Rules, 2005 within one month along with the order passed by this Court and the authorities shall pass reasoned and speaking order within 90 days in accordance with law after, conclusion of lok Sabha Election Lok Sabha Election.

6. It is made clear that this Court at the time of passing order is not interfering either in the original order or the appellate order. This Court only and only directs to decide petitioner's claim in the light of subsistence/suspension allowance during the period of suspension as well as the departmental proceeding.

7. Accordingly, this writ petition is disposed off.

(Dr. Anshuman, J)

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