

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 402 of 2025

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Ranjeet Kumar Rajak Son of Late Mahendra Prasad Rajak Resident of Village-Hanswar P.S.- Manihari, District-Katihar, Presently Residing at Flat No. 108B Vina Vihar Apartment Nitibagh, Jagdeopath, P.S.-Rupaspur, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Home Department, Government of Bihar, Patna.
3. The Secretary, Home Department, Government of Bihar, Patna.
4. The Director General of Police, Government of Bihar, Patna.
5. The Inspector General of Police (Police Headquarter), Government of Bihar, Patna.
6. The Deputy Secretary, Home Department (Police Section), Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Kumar Kaushik, Advocate
For the Respondent/s	:	Mr Vinay Kirti Singh, Sr Advocate, GA II with Mr Venkatesh Kirti, AC to GA II

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 15-02-2025

Heard learned counsel for the petitioner as well as the learned counsel for the State.

2 This petition has been preferred by the petitioner seeking the following reliefs:

“i For issuance of an order, direction or an appropriate writ for a declaration that the deemed suspension of the petitioner from the date of his detention as stipulated in Memo No 7666 dated 02.08.2022 with effect from



12.07.2022 shall be deemed to have ended when the petitioner submitted his joining before the Inspector General of Police (Police Headquarters) on 15.09.2022 which was accepted by the competent authority on operation of the legal fiction stipulated in Rule 3 (i) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 'hereinafter referred to as CCA Rules, 2005'.

ii For issuance of an order, direction or a writ of mandamus for directing the respondent authorities to immediately issue orders of posting of the petitioner on the post of Deputy Superintendent of Police since his suspension is deemed to have ended on 15.09.2022 on operation of legal fiction stipulated in Rule 3 (i) of the CCA Rules, 2005.

iii For issuance of an order, direction or an appropriate writ for directing the respondents to make payment of full salary to the petitioner from 15.09.2022 to the date of payment after deducting the subsistence allowance already paid to him for the period of suspension.

iv For issuance of an order, direction or a writ of certiorari for quashing and setting aside the order contained in Memo No 7666 dated 02.08.2022 and further for directing the respondent authorities to revoke the suspension of the petitioner with immediate effect since the petitioner was put under deemed suspension in exercise of powers under Rule 9 (2) (a) of the CCA Rules, 2005 with effect from the date of his detention and the aforesaid order is no longer valid after the submission of joining of the petitioner on 15.09.2022."

3 Brief facts of the case are that the petitioner, while he was posted as BSAP, Patna, an FIR has been lodged by the



Economic Offence Unit bearing Economic Offence Unit Case No 20 dated 09.05.2022 for the alleged offence punishable under Sections 420, 467, 468, 120B of the IPC, Section 66 of the IT Act and Section 3/10 of the Bihar Examination Control Act. During investigation, the petitioner was taken in custody on 12.07.2022. Therefore, in view of the provisions, as contained in Rule 9 (2) (a) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for brevity ***Bihar CCA Rules***), the petitioner was under a deemed suspension from the date of his detention. However, the Department had issued a formal notification contained in Memo No 7666 dated 02.08.2022 whereby and whereunder the petitioner was put under suspension with effect from the date of his detention (12.07.2022). Subsequently, the petitioner was granted bail by order dated 13.09.2022 passed by the learned Additional Chief Judicial Magistrate I, Patna and was released on 14.09.2022. The petitioner consequently submitted his joining before the IG (Police Headquarters), Patna on 15.09.2022 which was also accepted by the competent authority and the petitioner, thereafter, has marked his attendance at the police headquarters. Thereafter, charge memo was issued to the petitioner on 20.03.2023 (Annexure P/5) series. Meanwhile, the petitioner had filed ***Cr Misc No 9757 of 2023*** before this Court



against the order by which the application for discharge filed by the petitioner was rejected by the learned trial Court. The petition filed by the petitioner was allowed vide order dated 12.05.2023 and the matter was remitted back to the trial Court with a direction to consider the discharge application of the petitioner afresh. Thereafter, the concerned trial Court passed fresh order and allowed the application of the petitioner and discharged him from the charges levelled against him. The said order of discharge has been assailed by the respondents before this Court which has also been rejected.

4 It is submitted by the learned counsel for the petitioner that the petitioner was suspended in terms of Rule 9 (2) (a) of the Bihar CCA Rules which prescribes that a Government Servant shall be deemed to have been placed under suspension by an order of the appointing authority with effect from the date of his/her detention if she or he is detained in custody whether on a criminal charge or otherwise for a period exceeding 48 hours. Rule 9 (3) (i) prescribes that after the custody period under sub-rule (2), the period of deemed suspension shall be deemed to end when the Government Servant gives his joining and the joining shall be accepted. Rule 9 (3) (ii) of the Bihar CCA Rules further prescribes that if a decision is taken to suspend the Government Servant



again under sub-rule (1) (a), (b) or (c), then such action may be taken only after acceptance of joining and by issuing a separate order but in this case even after submission of joining by the petitioner, no separate order of suspension has been issued under Rule 9 (1) (a) (b) or (c), therefore, the suspension of the petitioner is deemed to have ended on 15.09.2022 when the petitioner submitted his joining. Thus, the petitioner is entitled to get full salary after deducting the subsistence allowance already paid to him with effect from 15.09.2022. The respondent-authorities have no power to keep the petitioner under suspension. He further submits that the petitioner had also filed an application before the State Level Committee constituted under the Bihar State Litigation Policy, 2011. The Committee has taken the decision that the petitioner's suspension is liable to be revoked and, accordingly, the Committee made its recommendation in its meeting dated 16.05.2024. Even after that, no any formal order of revocation of the suspension has been passed by the respondents and the Department has not issued order of posting of the petitioner. However, in the case of similarly situated person, namely, Birender Kumar Sahu, his suspension has been revoked. Reliance has been placed by the learned counsel on the judgment passed by a Division Bench of this Court in the case of *Anand Swarup @*



***Anand Swaroop -Versus- The State of Bihar & Others, 2011
SCC Online Patna 1196.***

5 Learned counsel for the respondent-State opposes the argument raised by the learned counsel for the petitioner. However, he fairly admitted the fact that even after the direction of this Court for filing the counter affidavit, the State is unable to file the same. He also admitted the fact that the High Powered Committee, in its Minutes dated 16.05.2024, made its recommendation for revocation of the suspension of the petitioner but no decision has been taken as yet and the matter is still pending before the appropriate authority.

6 Heard learned counsel appearing for both the parties. Perused the documents annexed with the petition.

7 There is no dispute on the point that the Economic Offence Unit Case No 20 dated 09.05.2022 has been registered against the petitioner and during the course of investigation, he was taken in custody on 12.07.2022. Therefore, in terms of Rule 9 (2) (a) of the Bihar CCA Rules, the petitioner shall be deemed to have been placed under suspension as he was detained in custody for a period exceeding 48 hours though there was no requirement for issuance of any formal order of suspension but formal order of suspension has been issued on 02.08.2012 (Annexure P/2)



whereby the petitioner has been suspended with effect from the date of his detention dated 12.07.2022.

8 At this juncture, it would be appropriate to reproduce Rule 9 (2) (a) and 3 (i) and (ii) of the Bihar CCA Rules which reads thus:

9. Order of Suspension.-

(2) A Government Servant shall be deemed to have been placed under suspension by an order of appointing authority with effect from the following date:-

(a) from the date of his or her detention, if he or she is detailed in custody, whether on a criminal charge or otherwise for a period exceeding forty-eight hours;

... ..

(3) (i) After the custody period under sub-rule (2), the period of deemed suspension shall be deemed to end when the Government Servant gives his joining and the joining shall be accepted.

(ii) If a decision is taken to suspend the Government Servant again under sub-rule (1) (a), or (b) or (c), then such action may be taken only after acceptance of joining and by issuing a separate order.”

9 Perusal of the order of suspension (Annexure P/2) shows that the same was exercised in terms of Rule 9 (2) (a) of the Bihar CCA Rules. Admittedly, the petitioner has been released on bail on 14.09.2022.



10 Rule 9 (3) (i) of the Bihar CCA Rules further provides that the period of deemed suspension shall be deemed to end when the Government Servant gives the joining and the joining shall be accepted. In this case, the petitioner herein, after his release on bail, joined the services on 15.09.2022 which reflects from Annexure P/4 and which has also not been disputed by the learned State Counsel. Since the petitioner has made his joining through Annexure P/4, therefore, if the Department was of the opinion that the suspension of the petitioner is further required to be extended then, as contained in Rule 9 (3) (ii) of the Bihar CCA Rules, a separate order of suspension is required but in this case, no further and separate order of suspension has been passed by the Department.

11 Dealing with this issue, a Division Bench of this Court in the case of *Anand Swarup @ Anand Swaroop (supra)* has observed and held at paragraphs 6 and 7 of the judgment as follows:

“6. Rule 9 (1) (c) has to be read in comparison to Rule 9 (2) (a) to resolve the controversy in the present case. It is apparent from the sub-rule (c) that a Government servant can be placed under suspension if a criminal offence is under investigation, enquiry or trial apart from other conditions mentioned therein. It is inherent in the situation that it needs a formal order of suspension. It is relevant to



state that this clause applies to cases of detention and takes place by automatic operation of law the moment the employee is taken into custody, and is released from suspension equally by automatic operation of law, and does not need a formal order on either of the two counts.

7. On a perusal of the impugned order of suspension in the present case, it appears to us that the power was exercised in terms of Rule 9 (2) (a). The recital of the order clearly states that the writ petitioner was placed under suspension because he was in detention. Though it does not need a formal order of suspension, but the authorities did pass an order of suspension which does not deflect from the position that the case is covered by Rule 9 (2) (a) of the Rules. The admitted position is that the writ petitioner has been released from custody on bail on 24.06.2007. We are, therefore, of the view that, in accordance with the provisions of Rule 9 (2) (a), it does not need a formal order of the authorities releasing the writ petitioner from suspension, and he stands released from suspension by automatic operation of law the moment he is released from custody.”

12 There is also no dispute on the point that the charge sheet has been issued to the petitioner on 12.01.2023, i e, more than 90 days from the date of order of suspension. The Minutes of the High Powered Committee dated 16.05.2024 (Annexure 11B) also shows that the High Powered Committee recommended for revocation of suspension of the petitioner but even after lapse of almost nine months, no decision has been taken by the concerned authorities as yet for the reasons best known to them.



13 Taking into consideration the facts (as referred herein above) that after release from the custody, the petitioner gave his joining on 15.09.2022 (Annexure P/4), therefore, as contained in Rule 9 (3) (i) of the Bihar CCA Rules, the period of deemed suspension of the petitioner shall be deemed to end when he gives his joining. As no separate order of continuation of suspension has been issued by the Department, therefore, on this ground alone as well as further taking into consideration the Minutes dated 16.05.2024 of the High Powered Committee (Annexure 11B) which also recommended revocation of suspension of the petitioner, a strong case is made out in favour of the petitioner.

14 Accordingly, the writ petition preferred by the petitioner stands allowed.

15 The respondents are directed to revoke the suspension of the petitioner with immediate effect and they are further directed to immediately issue order of posting of the petitioner. It will be done within two weeks from the date of receipt of a copy of order of this Court.

16 The authorities are further directed to make payment of full salary to the petitioner with effect from 15.09.2022 after deducting the subsistence allowance already paid to him during the period of suspension.



17 However, the respondents are at liberty to continue with the departmental enquiry, which is going on against the petitioner, in accordance with the rules and laws.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.02.2025
Transmission Date	NA

