

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2234 of 2025

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Sheo Balak Prasad, Son of Late Sri Jagdish Prasad, at present resident of
Mohalla- Seva Nagar, P.S.- Agam Kuan, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna.
2. The District Magistrate, Patna.
3. The Deputy Development Commissioner, Patna.
4. The Block Development Officer, Sampatchak, Patna, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raj Nandan Prasad, Advocate
For the Respondent/s	:	Mr. Standing Counsel (15)

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 11-02-2025 Heard the parties.

2. The petitioner is aggrieved with the order dated 03.10.2024 passed by the Deputy Development Commissioner, Patna as contained in letter no. 2025, whereby it has been informed that the petitioner is not entitled for any payment for the period 08.07.1999 to 09.09.1999, as also the increment for the year 1999 to 2003.

3. Learned Advocate for the petitioner contended that on account of institution of a criminal case, the petitioner was taken to judicial custody for the period since 08.07.1999 to 09.09.1999. On account of the aforesaid fact, the petitioner was also proceeded departmentally, but, later on, the suspension of



the petitioner has been revoked, however, it was made clear that the petitioner shall not get any allowances except the subsistence allowance and the period of suspension shall not be counted in the service.

4. The petitioner being aggrieved, preferred C.W.J.C. No. 7764 of 2003, which came to be disposed off directing the petitioner to file a service appeal before the Divisional Commissioner. The order of this Court dated 14.12.2009 has been placed on record as Annexure P/4. In compliance of the order of this Court, the petitioner preferred Service Appeal No. 13 of 2010 before the Divisional Commissioner, Patna challenging the order dated 15.04.2003.

5. The learned Divisional Commissioner, Patna having considered the submissions of the petitioner has set aside the order of the District Magistrate dated 15.04.2003. Notwithstanding the order of the District Magistrate, having been set aside, the petitioner has not been allowed the salary for the period in question, during which he remained under suspension; besides, he has also been deprived from the increment for the period 1999 to 2003. The petitioner being aggrieved by the inaction of the respondents approached before all the authorities concerned, but to no effect and finally, he filed



a complaint before the Service Grievance Redressal Officer, Patna, which came to be disposed off with a direction to the Block Development Officer, Sampatchak to pay all the dues to the petitioner, as soon as possible, vide its order dated 14.06.2024.

6. When the grievance of the petitioner was not redressed, he approached before the Appellate Authority under the Bihar Government Servant Grievance Redressal Rules, 2019 which was finally disposed off on 14.09.2024 with a direction to the Deputy Development Commissioner, Patna to redress the grievance after giving opportunity of hearing to all the concerned.

7. Surprisingly, the Deputy Development Commissioner vide its letter no. 2025 dated 03.10.2024 has considered the claim of the petitioner and held him not entitled for payment of salary for the period 08.07.1999 to 09.09.1999, as well as, the increment for the period 1999 to 2003. It is this order, which is put to challenge before this Court.

8. Learned Advocate for the petitioner contended that once it is the admitted that there is no order of punishment, much less the order of the District Magistrate contained in Memo No. 1816/B dated 15.04.2003 in existence on account of



the same being set aside by the order of the Divisional Commissioner, withholding of salary or any increment is wholly without jurisdiction and unsustainable in law.

9. Learned Advocate for the State dispelling the contention of the petitioner contended that since the facts are admitted that on account of institution of criminal case, the petitioner was under judicial custody for the period 08.07.1999 to 09.09.1999, thus, in any view of the matter, he is not entitled to salary for such period. However, he is unable to satisfy the Court with respect to withholding of increment.

10. Having heard the learned Advocate for the respective parties, this Court finds substance in the submission of the petitioner, however, only to the extent of increment which has been denied to the petitioner for the year 1999 to 2003.

11. Suffice it to observe that since the petitioner was under the judicial custody for the period 08.07.1999 to 09.09.1999, this Court does not find any justified reason to direct the salary for such period, however, it is the admitted position that there is neither any order of punishment in existence, nor the State has preferred any appeal against the order passed by the Divisional Commissioner, whereby the order of the District Magistrate dated 15.04.2003 was set aside.



In such circumstances, this Court finds that withholding of increment and not treating the period of suspension in service, without any sanction of law is wholly illegal and not sustainable; the petitioner is thus held to be entitled to get increment for the period 1999 to 2003 after treating his suspension period in service.

12. Accordingly, the impugned order as contained in letter no. 2025 dated 03.10.2024, as also the other consequential letter, stands set aside.

13. The respondent no. 2 is hereby directed to ensure the payment of all the consequential benefits on account of setting aside of the impugned order preferably within a period of twelve weeks from the date of receipt/production of a copy of this order.

14. The writ petition stands allowed to the extent indicated hereinabove.

(Harish Kumar, J)

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