

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8190 of 2024

Dr Subodh Kumar Son of Late Pran Mohan Singh Resident of Mohalla- Bind Toli, Sheikhpura, Post- B.V. college, Police Station- Shastri Nagar, District- Patna, presently working as Veterinary 1 Officer, Gaya Forest Division, Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Animal Husbandry and Fisheries Resources Department, Government of Bihar, Patna.
3. The Additional Secretary, Animal Husbandry and Fisheries Resources Department, Government of Bihar, Patna.
4. The Director, Animal Husbandry, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar Singh
For the Respondent/s : Mr.Standing Counsel (7)

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
CAV JUDGMENT

Date : 28-03-2025

1. Heard the parties.

2. In the present writ application, the petitioner prays for
grant of the following reliefs:

(I) For issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the Respondent Authorities to drop the departmental proceeding initiated against the petitioner in the year 2010 on the ground that even after lapse of six years of remand by a Bench of this Hon'ble Court vide judgment and order dated 05.04.2018 passed in C.W.J.C. No.7863 of 2014 after setting aside the punishment order contained in memo no. 475 dated 01.12.2015, the Respondent Department is not able to proceed in the departmental proceeding afresh in accordance with law since there is no material available with the department against the petitioner to proceed in the matter.



(II) For issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the Respondent Authorities to pay the salary of the petitioner for the period of 01.12.2015 to 22.12.2019 as well as count the said period as continuous service for all the purposes in which the Respondents had arbitrarily terminated the petitioner from the service vide resolution contained in memo no.475 dated 01.12.2015 as also to pay the salary of the suspension period after deducting the subsistence allowance on the ground that the same was already set aside by a Bench of this Hon'ble Court vide judgment and order dated 05.04.2018 passed in C.W.J.C. No.7863 of 2014 and on remand, the Respondent Authorities are not able to proceed afresh since there is no material available with the department.

(III) For issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the Respondent Authorities to grant all consequential benefits such as promotion etc. and to pay the same which the petitioner has not been granted because of the impugned order of punishment was passed by the disciplinary authority which was already set aside by a Bench of this Hon'ble Court vide judgment and 05 order dated 05.04.2018.

(IV) For issuance of any other appropriate writ / writs, order/orders direction/ directions for which the writ petitioner would be entitled under the facts and circumstances of the case.

3. The petitioner was appointed as Veterinary Doctor in the year 1997 and he was transferred to Patna as Junior Assistant Research Officer, Animal Husbandry Department, BBC Campus Patna, in the year 2001. While the petitioner was residing in Government quarter No.7, a raid was conducted by Vigilance Officials and two post-dated cheques and admit card of different



examinations were seized from the official residence of the petitioner and for that Vigilance Case No.19 of 2005 was registered. A departmental enquiry was also initiated and one Dr. Sudhakar Jha was appointed as Conducting Officer. Dr. Sudhakar Jha submitted his enquiry report on 05.08.2010 but the disciplinary authority vide order as contained in Memo No.237 dated 08.06.2011 ordered for holding fresh departmental enquiry. Rajesh Kumar, Director, Animal Husbandry Department, Patna was appointed as Conducting Officer. Rajesh Kumar submitted his report without holding any departmental inquiry in accordance with law. The petitioner vide CWJC No.7863 of 2014 challenged the second enquiry report dated 11.03.2014, but during the pendency of the said writ petition, the petitioner was dismissed from service vide Resolution as contained in Memo No.475 dated 01.12.2015 on the basis of the second enquiry report and this dismissal order was also challenged by the petitioner by filing I.A. No. 158 of 2016 in C.W.J.C. No. 7863 of 2014, which was allowed vide order dated 28.07.2017.

4. While advancing argument in C.W.J.C. No. 7863 of 2014, the learned counsel for the petitioner had submitted that in view of provisions, as contained in Rule 18 of the Bihar Government Servant (Classification, Control and Appeal) Rules,



2005, no fresh enquiry could have been directed to be held. Consequently, the order dated 08.06.2011 ordering for holding fresh departmental enquiry was illegal and also the second enquiry report was illegal on this account. The petitioner's counsel in this regard had relied upon several judgments. It was finally contended that since the dismissal order was based on the second enquiry report, therefore, even the dismissal order was illegal and not sustainable in law.

5. While deciding C.W.J.C. No. 7863 of 2014, this Court vide Judgment dated 5.4.2018 agreed with the contention of the petitioner and held that the order of the disciplinary authority as contained in Memo No.237 dated 8.6.2011 directing to hold fresh enquiry and appoint another conducting officer was de hors the Rules and was not sustainable. The writ petition was allowed and the second enquiry report as well as the dismissal order dated 11.02.2015 were set aside. The matter was remitted to the disciplinary authority to proceed in accordance with law. The operative portion of the judgment and order dated 05.04.2018 passed in C.W.J.C. No. 7863 of 2014 is quoted hereinbelow for needful :-

“Accordingly, this writ petition is allowed and the second enquiry report, as contained in Annexure-1 and punishment thereupon, as contained



in Annexure-4, are set aside. The matter is remitted to the disciplinary authority to proceed in accordance with law.”

6. It is stated by the petitioner that after the aforesaid order dated 05.04.2018 passed in C.W.J.C. No. 7863 of 2014 when the respondents did not take steps to reinstate the petitioner in service, the petitioner was compelled to file MJC No.3178 of 2018 but during the pendency of the said petition, before this Hon'ble Court, the disciplinary authority issued a Notification, contained in Memo No. 363 dated 21.12.2019 whereby the petitioner was directed to submit his joining in the Department. Pursuant to the said Notification dated 21.12.2019, the petitioner submitted that he joined in the Department on 23.12.2019 and thereafter took over the charge of Veterinary Medical Officer, Gaya Forest Division, Gaya on 24.07.2020. The petitioner, further contend that after the lapse of about 2 years of remand by this Hon'ble Court vide order dated 05.04.2018 passed in C.W.J.C. No. 7863 of 2014, the disciplinary authority decided to take steps and in this regard, the petitioner was directed to submit his written statement on the basis of first enquiry report vide letter No. 47 dated 07.02.2020 issued under the signature of Additional Secretary, Animal Husbandry and Fisheries Resources Department, Govt. of Bihar, Patna. In compliance of the same, the petitioner filed his written statement



on 14.02.2020 wherein the petitioner claims to have categorically replied all the charges levelled against him in great detail. The petitioner, further contends that after submission of the written statement, the Department has not proceeded against the petitioner since then as there is no material available before the Department to proceed against the petitioner but still then the department is keeping the matter pending only with a view to harass the petitioner. The petitioner also contends that he has filed an application dated 31.07.2020 before the respondent No.2 (The Principal Secretary, Animal Husbandry and Fisheries Resources Department, Govt. of Bihar, Patna) whereby he has made a request to make payment of arrears of salary of termination period as also to treat the said period as continuous service. The petitioner thereafter contends to have reminded the respondent authorities on 31.08.2021 for payment of salary and for treating him in service continuous service. Petitioner further, claims to have filed application before the respondent No.2 on 19.01.2024 and 09.02.2024 for his exoneration from departmental proceeding. However, even after the lapse of more than six years, the respondents are not able to proceed with the departmental proceedings against the petitioner as there is no material against him to prove the charges levelled against him but even then the



respondents are neither exonerating the petitioner nor paying his salary of the termination period. Thus, being aggrieved, the petitioner had to file the present writ application claiming the reliefs as quoted hereinabove.

7. The respondent No.2 to 4 have filed their counter affidavit and in paragraph 16 of the counter affidavit, it has been categorically admitted by the respondent authorities that after considering the reply of the petitioner as well as other materials available on records, the disciplinary authority has exonerated the petitioner vide order contained in Memo No.282 dated 22.08.2024 (Annexure-R/A to the counter affidavit) with a condition that the exoneration will be subject to the decision of the Vigilance Court in connection with Vigilance P.S. Case No. 19 of 2005 and the disciplinary authority has also observed that the dismissal period from 01.12.2015 to 21.12.2019 will be treated as duty period for all purposes, and therefore, for the said period, the salary and other benefits will be paid to the petitioner. In paragraph 16 of the counter affidavit, it has been further stated that the disciplinary authority has also observed that the salary for the suspension period from 02.02.2006 to 17.09.2006 and 27.10.2009 to 28.06.2012 will be considered after the result of Vigilance P.S.



Case No. 19 of 2005. Paragraph 16 of the counter affidavit filed by the respondents No.2 to 4 is quoted hereinbelow for needful :-

“16. That the disciplinary authority considered the reply of the petitioner as well as other materials available on records. The disciplinary authority exonerated the petitioner vide order contained in Memo No.282 dated 22.08.2024 with a condition that the exoneration will be subject to the decision of Vigilance Court in connection with Vigilance P.S. Case No. 19 of 2005 and the disciplinary authority also observed that the dismissal period from 01.12.2015 to 21.12.2019 will be treated as duty period for all purposes hence for the said period, the salary and other benefits will be paid to the petitioner. The disciplinary authority also observed that the salary for the suspension period from 02.02.2006 to 17.09.2006 and 27.10.2009 to 28.06.2012 will be considered after the result of Vigilance P.S. Case No.19/2005.”

8. In view of the above decision of the disciplinary authority, contained in Memo No. 282 of 22.8.2024 (Annexure-R/A-8) to the counter affidavit by which the petitioner has been exonerated subject to the decision of the Vigilance Court in connection with Vigilance P.S. Case No. 19 of 2005 and taking into account the previous order of this Hon'ble Court dated 05.04.2018 passed in C.W.J.C. No. 7863 of 2014, now there does not exist any departmental proceeding against the petitioner, and



therefore the disciplinary authority has rightly decided to treat the dismissal period from 01.12.2015 to 21.12.2019 as duty period for all purposes and to pay salary and other benefits to the petitioner for the said period. If this payment has not been made up till now, the same shall be paid to the petitioner within four weeks from the date of production of a copy of this order, failing which the petitioner would be entitled to be paid interest @ 6 per cent per annum on the said payment from 22.08.2024.

9. Since the petitioner has already been exonerated and there is no disciplinary proceeding now pending against him, there is no reason as to why the petitioner should not be paid salary for the suspension period from 02.02.2006 to 17.09.2006 and 27.10.2009 to 28.06.2012 after deducting the subsistence allowance payment. The respondent authorities are, therefore, directed to even make this payment for the suspension period within four weeks from the date of production of a copy of this order failing which against the petitioner would be entitled to 6 per cent interest per annum from the date 22.08.2024. The order of exoneration contained in Memo No.282 dated 22.08.2024 (Annexure R/A) therefore, stands set aside only to the extent it had decided to keep on hold payment for suspension periods after the result of Vigilance P.S. Case No. 19/2005. It is, however, made



clear that the exoneration of the petitioner will continue to be subject to the decision of Vigilance Court in connection with Vigilance P.S. Case No.19 of 2005 and the respondent authorities will be at liberty to proceed afresh against the petitioner in accordance with law, if any adverse order is passed in Vigilance P.S. Case No.19 of 2005.

10. With the above observation and directions, the present writ application stands allowed to the extent indicated above.

(Alok Kumar Sinha, J)

sanjeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	28.03.2025
Transmission Date	

