

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1358 of 2017

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Deepa Rani Dey Wife of Sri Bishwa Kalyan Ganguly, resident of Laxmi Narayan Nagar, Bela, P.S.- Bela, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna through its Chairman
2. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
3. The Secretary, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna
4. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Muzaffarpur.
5. The Officer-on-Special Duty, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Prashant Sinha, Advocate
For the BIADA	:	Mr. Parth Gaurav, Advocate
		Mr. Yashraj Bardhan, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 07-02-2025

Heard Learned Counsel for the petitioner and

Learned Counsel for the Bihar Industrial Area Development

Authority.

2. The present writ petition has been filed by the

petitioner for the following reliefs:-

*“(i) For issuance of writ in
the nature of certiorari for quashing of
Memo No. 7331 dated 06-12-2012 whereby
the 1st and 2nd stagnation increment granted*



to the Petitioner vide Memo No. 6729 dated 12-10-2010 w.e.f. 01-05-2007 and 22-06-2009 has been withdrawn and a recovery has been directed to be made for the amount already paid as stagnation increment.

(ii) For staying the operation of Memo No. 7331 dated 06-12-2012 during the pendency of this writ application and also for restraining the respondents from making any recovery from the amount already paid as stagnation increment.

(iii) For issuance of writ in the nature of certiorari for quashing of Memo No. 2251/Estt. dated 06-05-2016 issued by the Secretary, Bihar Industrial Area Development Authority upon the orders of the Managing Director whereby the representations made by the Petitioner for recall of the order of punishment and payment of withheld stagnation increments, has been rejected by a common order whereby the representations made for payment of withheld salary for certain days in an arbitrary manner, has also been rejected. It would also be relevant to point out that the said Memo No. 2251 dated 06-05-2016 has also been challenged in CWJC No. 9796/2016 preferred by the Petitioner for payment of her back wages and withheld salary, but since withholdment of stagnation



increments is altogether a separate cause of action, hence, the Petitioner is challenging that part of the order whereby the stagnation increments has been withheld.

(iv) For quashing of order of punishment contained in Memo No. 237 dated 26-10-2007 whereby the Petitioner has been punished with a major punishment of withholding of three annual increments with cumulative effect by the Managing Director, BIADA while the Enquiry Officer had not proved the charges against the Petitioner and the punishment has been awarded by the Disciplinary Authority without issuing any second show cause notice or any note of disagreement from the findings of the report of the Enquiry Officer.

(v) For holding that the Petitioner is entitled for 1st , 2nd and 3rd stagnation increments w.e.f. 01-05-2007, 01-05-2009 and 01-05-2011 respectively as the Chairman, BIADA vide his order dated 11-06-2009 has simply set aside the order of termination, meaning thereby the Petitioner is deemed to be in service continuously and the period undergone as termination w.e.f. 14-03-2008 to 23-06-2009 has got no effect over the grant of stagnation increment to the Petitioner. Moreover, the Petitioner was given the 1st stagnation increment vide order



dated 29-01-2007 w.e.f. 01-05-2007, i.e., prior to the order of punishment dated 26-10-2007 and next two increments became due on 01-05-2009 and 01-05-2011, which is after the reinstatement of the Petitioner.

(vi) For directing the respondents to pay the 1st , 2nd and 3rd stagnation increment to the Petitioner w.e.f. 01-05-2007, 01-05-2009 and 01-05-2011 respectively, along with arrears and other consequential benefits because withholdment of stagnation increments has adversely affected the fixation of pay of the Petitioner in the 6th pay revision as well as fixation upon grant of Assured Career Progression.”

3. Learned Counsel for the petitioner fairly submits that in her service career the petitioner was punished twice. The first punishment was imposed to the petitioner vide Annexure-7, i.e., order dated 26.10.2007 contained in Memo No. 237, by which punishment for three annual increments withheld with cumulative effects has been imposed. Counsel further submits that another punishment, on the ground of unauthorized absence, was dismissal from service which the petitioner challenged in appeal and appellate authority has set aside the punishment order and for gap period benefits have not been provided due to which petitioner has filed another writ



petition bearing CWJC No.9796 of 2016, which is still pending.

In the said petition, the petitioner has challenged the part of Memo No.2251 dated 06.05.2016, which is effected from the order of punishment through which petitioner was removed from the service but subsequently his termination order was set aside by the appellate authority.

4. Learned Counsel for the petitioner submits that in the present writ petitioner he is aggrieved by the second part of the order dated 06.05.2016 which is effected due to the punishment order dated 26.10.2007 (Annexur-7). Counsel submits that exactly similarly situated person has moved before this Hon'ble Court and his writ petition was dismissed but in the L.P.A. bearing L.P.A. No.2099 of 2016 (**Ram Briksh Sah Vs. The Chairman, Bihar Industrial Area Development Authority & Others**) reported in **2018(2) PLJR 900**, the Hon'ble Court has pleased to decide the issue which is exactly similar to the present case, where punishment of three annual increment be withheld with cumulative effect in spite of the fact that the Enquiry Authority has exonerated the petitioner of those reported case as well as of the present petitioner.

5. Learned Counsel for the petitioner further submits that the said judgment passed in the above mentioned



reported case has been challenged by the Bihar Industrial Area Development Authority (hereinafter referred to as the 'BIADA' before the Hon'ble Supreme Court in Special Leave to Appeal (C) No.26698 of 2018 but the said SLP of BIADA was dismissed and the order passed by the Division Bench reported above has been affirmed.

6. Counsel further submits that thereafter all necessary benefits have been granted by the BIADA to Ram Briksh Sah. Counsel submits that his case is exactly similar to the case of Ram Briksh Sah. He fairly submits that in the present case he has not preferred appeal before the Secretary, Industry Department rather he moved before the Hon'ble Court in the present writ petition.

7. Learned Counsel for the BIADA submits that petitioner has not exhausted the statutory remedy of appeal and directly come to the High Court.

8. In the light of the present facts and circumstances, this Court is of the firm view that case of petitioner is exactly covered under Section 4C.1 of the Bihar State Litigation Policy, 2011, which has been especially designed by the legislature to deal such type of situation. The present case is a fit case to be considered under this category.



9. In this background, this writ petition is allowed, directing the appellate authority to consider the case of the present petitioner in the light of the case of Ram Briksh Sah Vs. The Chairman, Bihar Industrial Area Development Authority (supra) within 90 days from the date of receipt/production of a copy of this order before him.

10. It is made clear that all dues, which has been paid to Ram Briksh Sah shall also be paid to the petitioner within further 90 days. The petitioner shall be at liberty to raise more claim if he desires so according to law. Since the petitioner was persuading continuously, therefore, no question of limitation shall be a barrier for him.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.02.2025
Transmission Date	NA

