

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.587 of 2022

In
Civil Writ Jurisdiction Case No.18983 of 2011

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1. The State of Bihar.
 2. The Principal Secretary, Home Department, Government of Bihar, Patna.
 3. The Inspector General of Prison, Government of Bihar, Patna.
 4. The Jail Superintendent, Samastipur Mandal Kara, Samastipur.
 5. The Treasury Officer, Government of Bihar, Patna.
 6. The Deputy Secretary, Home Department, Government of Bihar, Patna.

... .. Appellant/s

Versus

1. Bishwanath Prasad son of Sri Ram Chandra Ram, Resident of C/o Shiv Dhyan Singh, Sundari Sadan (1st Floor) Jagat Narain Road, Patna, P.S.-Kadamkuan, District- Patna.
2. The Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Madhaw Prasad Yadaw (GP 23) Ms. Meera Singh, AC to GP 23
For the Respondent/s	:	Mr. Mrigank Mauli, Sr. Advocate Mr. Abhinav Alok. Advocate Mr. Sanket Kumar, Advocate Mr. Venktesh Kirti, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 20-03-2025

Heard Mr. Madhaw Prasad Yadav, learned

GP-23 for the appellant/State and Mr. Mrigank Mauli,

learned Senior Advocate for the respondent.

Re.: I.A. No. 01 of 2022



2. Under the circumstances of the case and on the grounds raised in I.A. No. 01 of 2022 explaining the delay of 47 days in preferring this appeal, we condone the delay and allow I.A. No. 01 of 2022.

3. I.A. No. 01 of 2022 stands allowed.

Re.: L.P.A. No. 587 of 2022

4. The challenge in this appeal is to the judgment dated 02.08.2022 passed by a learned Single Judge in C.W.J.C. No. 18983 of 2011, whereby the order of punishment dated 20.08.2008 has been set aside and the appellant has been directed to pay all monetary benefits to the respondent within a period of three months from the date of the judgment.

5. The respondent, while serving as Jail Superintendent was subjected to disciplinary proceedings in the year 2007. On 02.05.2008, the disciplinary Authority slapped the respondent with a penalty of lower stage of pay-scale but without specifying the time period for which such punishment would have been effective.



6. It would also be relevant to note that the respondent was about to retire by that time. The punishment order was passed in the month of the retirement of the respondent. During the departmental proceeding, no subsistence allowance also was paid to the respondent for reasons which were unexplainable.

7. Taking these two grounds, the learned Single Judge set aside the order of punishment.

8. Mr. Madhaw Prasad Yadav, learned Advocate for the appellant has submitted that subsistence allowance to the respondent was paid, though after his retirement and that cannot be the basis for setting aside the order of punishment. If no specific time frame was given by the Disciplinary Authority for the order to remain operative, it could be presumed to have been operative for one month only as the respondent had to retire on 30.09.2008.

9. As opposed to the aforementioned contentions, Mr. Mrigank Mauli, learned Senior Advocate for the



respondent has pointed out that Sub-Rule 7 of Rule 14 of the *Bihar Government Servants (Classification, Control & Appeal) Rules, 2005*, specifically provides that if an employee is subjected to reduction to a lower stage in the time scale of pay, it has to be for a specified period with further direction as to whether or not the employee will earn increments of pay during the period, of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increment of his pay.

10. Apart from this, it has been urged on behalf of the respondent that for non-payment of subsistence allowance, which in this case was for approximately two years, it would be deemed to be unfair to the employee. The Supreme Court in ***UCO Bank & Ors. vs. Rajendra Shankar Shukla (2018)14 SCC 92*** has explained that an employee is entitled to subsistence allowance during an inquiry pending against him or her but if that employee is starved of finances by



zero payment, it would be unreasonable to expect the employee to meaningfully participate in the departmental inquiry.

11. What was harped upon in the aforementioned judgment was that access to justice is a valuable right available to every person and even if a delinquent employee is guilty of misconduct, that would be no ground to deny access of justice to him.

12. Apart from the aforementioned grounds, we have also taken note of the fact that the respondent had retired in 2008 and the punishment order was also of the same month and year.

13. No good ground has been shown by the appellant/State for making any interference with the judgment of the learned Single Judge, whereby the punishment order has been set aside and the respondent has been asked to be paid his monetary benefits within a period of three months.

14. If the monetary benefits have not been



paid up till now, that shall positively be paid within next three months.

15. The appeal stands dismissed with the aforenoted observation.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

krishna/-

AFR/NAFR	NAFR
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