

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.335 of 2024

In
Civil Writ Jurisdiction Case No.25057 of 2019

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Brija Singh Son of Late Dudheshwar Singh, Resident of - Kusumpuram Road,
P.S.- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Sri Kumar Ravi, Chief Secretary, Government of Bihar, Main Secretariat Patna.
2. Smt. Varsha Singh, The Joint Secretary, Building Construction Department, Government of Bihar, Patna.
3. Sri Rakesh Kumar, the Additional Secretary, Building Construction Department, Government of Bihar, Patna.
4. Sri Rakesh Kumar, the Chief Engineer (South), Building Construction, Department, Government of Bihar, Patna.
5. Sri Sunil Chaudhary, The Planning Engineer, In the office of Chief Engineer (North) Wing, Building Construction Department, Government of Bihar, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Dr. Ranjeet Kumar, Advocate Mr. Kanishk Kaustubh, Advocate Mr. Rajnish Prakash, Advocate Ms. Lakshmi Kumari, Advocate Ms. Prerna, Advocate
For the Opposite Party/state:		Mr. Manoj Kumar Ambastha, Standing Counsel 26 Mr. Santosh Kumar Mishra, AC to SC 26 Mr. Divit Vinod, AC to SC 26

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 13 18-03-2026 1. Heard the parties.
2. The present contempt application has been filed against
the contemnor - opposite parties for their willful defiance of the
judgment of this Court dated 28.09.2021 passed in C.W.J.C. No.
25057 of 2019.
3. Mr. Ranjeet Kumar, learned counsel appearing for the



petitioner submits that the opposite parties in blatant violation of the order of the High Court has refused to pay consequential benefits.

4. This Court while setting aside the impugned order of dismissal directed the opposite parties-respondents to reinstate the petitioner with all consequential benefits. The Court at the same time also observed that the order setting aside the dismissal of the petitioner will not preclude the respondents/ opposite parties to proceed afresh in the matter from the stage of enquiry.

5. Accordingly, submission is that the impugned order of dismissal was not quashed on technical ground but on substantive ground that the respondents failed to bring home the charges against the petitioner and did not produce cogent evidence, as such, the order granting liberty to the respondents to start fresh proceeding against the petitioner will not entitle the respondents / opposite parties to suspend the petitioner after reinstatement and to start a fresh proceeding considering setting aside of dismissal order on technical ground in terms of Rule 9(5) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for short “CCA Rules, 2005”). His contention is that on the contrary Rule 13(2) of the CCA Rules,



2005 shall apply in the case of the petitioner and the petitioner is entitled for full salary from the period of dismissal i.e. from 2019 till second dismissal on 06.12.2023 on the ground of conviction in the criminal case

6. On the other hand, Mr. Manoj Kumar Ambastha, learned Standing Counsel-26 argued that order of this Court has been complied in terms of provision of law and there is no willful and deliberate defiance of the order passed by this Court. The petitioner was posted as Assistant Engineer in the Building Construction Department, Rajendra Nagar Sub Division Office, Patna and was arrested red handed while accepting Rs. 25,000/- as bribe from the complainant for which F.I.R. having Vigilance P.S. Case No. 18 of 2017 was also lodged against the petitioner for the offence under Section 7 / 13(2) read with Section 13(1) (D) of the Prevention of Corruption Act, 1988.

7. Both criminal proceeding as well as departmental proceeding were going against the petitioner. In the departmental proceeding the respondents failed to produce adequate evidence against the petitioner and only a letter of Superintendent of Police, Vigilance Investigation Bureau, Patna and the F.I.R. were produced during the course of enquiry which were treated as evidence. This Hon'ble Court came to the



conclusion in the final order passed in the writ petition dated 28.09.2021 that reliance by the Enquiry Officer on the letter of Superintendent of Police, Vigilance Investigation Bureau, Patna and the F.I.R. and accepting the same as a piece of evidence is not correct and the aforesaid two documents could not have been treated as evidence. In that background while setting aside the impugned order of dismissal this Court observed that this order will not preclude the respondents to proceed afresh in the matter from the stage of enquiry. Granting liberty to the respondents to start fresh enquiry proceedings against the petitioner includes that fresh proceeding shall start in accordance with the provisions of law.

8. He relied upon Rule 9(5) of the CCA Rules, 2005 and submits that in terms of Rule 9(5) the authority after reinstating the petitioner in terms of the order passed by this Court suspended him with effect from the date of his dismissal on 26.08.2019 and started a fresh departmental proceeding against the petitioner.

9. The order passed by this Court gives liberty to the respondents to start a fresh departmental proceeding against the petitioner as well as Rule 9(5) of the CCA Rules, 2005 gives permission to the respondents that if the respondents decide to



hold further inquiry against a Government servant on the allegations on which penalty of dismissal / removal / compulsory retirement was originally imposed, the Government servant shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal / removal / or compulsory retirement and shall continue to remain under suspension until further orders. Fresh departmental proceeding was initiated against the petitioner on 23.06.2022, however, in the criminal proceeding learned Vigilance Court has convicted the petitioner on 16.11.2022. On the ground on conviction in criminal case the petitioner has again been dismissed from service by the respondents on 06.12.2023. The respondents / opposite parties in terms of legal provision and in terms of order passed by this Court has already paid subsistence allowance to the petitioner with effect from the date of his dismissal in 2019 till his second dismissal on 06.12.2023. Apart from the above the respondents / opposite parties have also paid the suspension allowance to the petitioner from the his first suspension order dated 02.03.2017 till the date of second dismissal. Accordingly, submission is that there is no willful and deliberate defiance of the order passed by this Court.

10. Having heard the rival submission of the parties, taking



into consideration the nature of order passed by this Court and the provisions of CCA Rules, 2005, this Court comes to the conclusion that the order passed by this Court has not been violated by the respondents / opposite parties deliberately and willfully. Accordingly, I do not find any merit in this contempt application. The same is dismissed.

(Anil Kumar Sinha, J)

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