

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6237 of 2023

=====

Nawal Kishore Singh @ Naval Kishor Prasad Singh S/o Late Janatari
Mandal, R/o Balaha, Narayanpur, P.S.-Bihpur, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Bihar, Patna.
2. Principal Secretary, Finance Department, Bihar, Patna.
3. Accountant General, Bihar, Patna.
4. Commissioner, Koshi Division, Saharsa.
5. Collector, Saharsa.
6. Sub-Divisional Officer, Saharsa.
7. Treasury Officer, Saharsa.
8. Anchal Adhikari, Mahisi, District-Saharsa.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Ms.Mallika Mazumdar, Advocate.
For the State	:	Smt. Anuradha Singh, SC-21.
For Acct. General	:	Mr. Rajnandan Prasad, Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

15 23-07-2026

Re.: I.A. No. 01 of 2026

Learned counsel appearing on behalf of the petitioner submits that, during the pendency of the present writ petition, the Sub-Divisional Officer, Sadar, Saharsa, passed an order contained in Memo No. 1874-2 dated 10.10.2023, whereby the petitioner's claim for regularization of the leave period, as mentioned in paragraph 3 of the interlocutory application, has been rejected.

2. Considering the information contained in the I.A. and the reasons assigned, the I.A. No. 01 of 2026 stands



allowed.

3. Office / Petitioner is directed to take necessary steps to add the relief as prayed for in Paragraph Nos. 1 & 2 of the I.A. in the prayer portion of the main writ petition.

Re.: C.W.J.C. No. 6237 of 2023

4. Heard Ms. Mallika Mazumdar, learned counsel appearing on behalf of the petitioner; Smt. Anuradha Singh, learned counsel for the State and Mr. Rajnandan Prasad, learned counsel for the Accountant General.

5. The petitioner in paragraph no. 1 of the present writ petition has sought, *inter alia*, following relief(s), which is reproduced hereinafter:-

“(1) For payment of leave salary during following period between 5.6.1999 to 12.10.2004 i.e. the periods mentioned below.

- (i) 05.06.1999-21.06.1999*
- (ii) 06.01.2000-06.02.2000*
- (iii) 12.04.2000 - 31.05.2000*
- (iv) 15.08.2000- 17.08.2000*
- (v) 17.05.2001 - 14.06.2001*
- (vi) 01.09.2001 - 16.09.2001*
- (vii) 27.09.2001 - 31.12.2001*
- (viii) 01.07.2001 - 30.09.2003*
- (ix) 01.01.2004 - 12.12.2004*

Total leave period is 373 days. Besides above leave period following strike period are :-

*12.01.1999-07.05.1999
13.12.2004 - 21.01.2005*

Which was sanctioned by State Government Bihar, but leave salary has not been paid to the petitioner though these above leave period have been sanctioned vide office letter No. 70-2 dated 19.3.2007.”



6. Ms. Majumdar, learned counsel appearing on behalf of the petitioner submitted that the petitioner was appointed on 30.04.1981 on the post of Upper Division Clerk and retired from the same post from Anchal Office, Mahisi on 31.12.2012. She further submitted that the petitioner is entitled for regularization and encashment of the leave period from 05.06.1999 to 12.10.2004 i.e. total 373 days. A clarification has been made by the petitioner that from 12.01.1999 to 07.05.1999 and 13.12.2004 to 21.01.2005 are the period of strike which has been sanctioned as period of leave vide Office Letter No. 70-2 dated 19.03.2007. The bill for encashment of entire leave period was prepared and duly signed by the Anchal Adhikari, Mahishi, but in want of allotment for the financial year 2006-07, the leave period could not be encashed to petitioner. Later on, the petitioner was communicated vide Letter No. 1874-2 dated 10.10.2023 that the leave which was sanctioned earlier has been rejected by the S.D.O., Sadar, Mahishi, Saharsa.

7. Learned counsel vehemently draws attention to the provisions of Bihar Service Code and submits that the S.D.O., Sadar, Mahishi has acted without his jurisdiction, as he has not been authorized by the District Magistrate cum Collector, in so far as, he has rejected the earlier leave, which was sanctioned



under the order of the Collector.

8. No doubt, the petitioner has been made prey by the vindictive action of the S.D.O., Sadar, Mahishi, Saharsa., but I find that, at the same time, the District Magistrate has not exercised his jurisdiction to take corrective measures. Once the leave has been regularized and sanctioned, the pension of the petitioner is required to be revised. Rules 58 and 59 of the Bihar Pension Rules, in this regard, needs to be taken into consideration, which are reproduced hereinafter:

“Rule :- 58 the services of a Government servant does not qualify for pension unless it conforms to the following three conditions :-

First - The Service must be under Government.

Second - the employment must be substantive and permanent.

Third - the service must be paid by Government.

Rule :- 59 The provincial Government may, however, in the case of service paid from general revenues, even though either or both of conditions (1) and (2) are not fulfilled.

(1) declare that any specified kind of service rendered in a non- gazetted capacity shall qualify for pension.

(2) In individual cases, and subject to such conditions as it may think fit to impose in each case, direct that service rendered by a Government servant shall count for pension.”

9. The petitioner has based his claim on the basis of Letter No. 70-2 dated 19.03.2007 and the bill prepared by the Office of the Anchal Adhikari, Mahishi, where he was posted as



Head Assistant. It has been made clear that the said bill was not encashed and was subsequently cancelled. The petitioner also did not raise any objection before the competent authority at the relevant point of time. Thereafter, the matter was reconsidered by the Sub-Divisional Officer, who examined the petitioner's claim for encashment of the leave period in accordance with the provisions of Rules 232 and 233 of the Bihar Service Code and rejected the claim of the petitioner on the ground that, except casual and restricted leave, the competent authority to sanction leave is the District Magistrate-cum-Collector. After noticing the mistake, instead of forwarding the service records to the District Magistrate-cum-Collector, the Sub-Divisional Officer on his own has passed the order dated 10.10.2023, without having jurisdiction.

10. In view of the admitted illegality committed by the S.D.O., I don't find that the petitioner be subjected to any penal action.

11. The District Magistrate, Saharsa is directed to call for the service records of the petitioner and pass a reasoned order, in accordance with law, after affording due opportunity of hearing to the petitioner who had retired way back in the year 2012 and is being harassed to face the consequences of illegal



act of its officers within his jurisdiction. The entire exercise is directed to be completed expeditiously so that the petitioner may not suffer.

12. The writ petition, accordingly, stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

U			
---	--	--	--

