

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6250 of 2017

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Rajeev Kumar S/o late Radha Krishna Vajpayee, Resident of Village-
Akabarpur, P.S. Paliganj, District- Jahanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner cum Secretary Revenue and Land Reform Department, Govt. of Bihar, Patna.
2. The Deputy Commissioner, Revenue and Land Reform Department, Danapur, Patna.
3. The Commissioner, Patna Division, Patna.
4. The Collector cum District Magistrate, District- Patna.
5. The Circle Officer, Maner, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bijay Shankar Choubey, Advocate
For the Respondent/s : Mr. Sajid Salim Khan, SC-25

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 12-02-2026

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner filed the instant application for the
following reliefs :-

“(i) The issuance of an appropriate writ/writs, order/orders, direction/directions in the nature of writ of certiorari for setting aside the impugned order dated 24.09.2015 passed by the Commissioner, Patna Division, Patna passed in service appeal no 130/2013 (Annexure-13) whereby and whereunder learned commissioner has pleased to reject the appeal of the petitioner and upheld the order of the District Magistrate, Patna dated 04.04.2009.



(ii) For issuance of writ of certiorari setting aside the order 04.04.2009 passed by the District Magistrate, Patna (Annexure-10) whereby and whereunder the petitioner was denied to pay his salary from 29.8.1984 to 20.12.1985 (suspension period) and the payment of 15.03.2002 to 29.03.2005 (the dismissal period)

(iii) And for the other necessary relief/reliefs the facts and to the basis of circumstances of the case as enumerated and stated hereinafter”

3. The original petitioner (hereinafter referred to as ‘the petitioner’) having died on 21.8.2023 during pendency of the instant application was substituted by his legal heir.

4. The case of the petitioner in brief is that while posted and working as *Rajaswa Karmchari* (Revenue Clerk), the petitioner was proceeded against in a departmental proceeding by serving him a memo of charge. He was suspended by order dated 29.8.1984, which was later vacated on 20.12.1985. The departmental proceedings ended in an order of dismissal being passed against the petitioner on 15.3.2002, which on being challenged in this Court was set aside by order dated 28.2.2005 passed in CWJC no.14092 of 2003. While setting aside the orders impugned, this Court remitted the matter back to the authorities to proceed in accordance with law if they



so liked.

5. The respondents thereafter proceeded against the petitioner and have passed the order impugned dated 4.4.2009 under the signature of the Collector, Patna whereby while granting benefit of doubt to the petitioner, it has been ordered that for the period suspension i.e. from 29.8.1984 to 20.12.1985, no other amount would be payable to the petitioner except for subsistence allowance. It has further been ordered that on the principle of 'No Work No Pay', the petitioner would not be entitled for any salary for the period of dismissal i.e. from 15.3.2002 to 29.3.2005.

6. The petitioner challenged the order dated 4.4.2009 in appeal which was dismissed by order dated 24.9.2015 passed in Service Appeal no.130 of 2013 by the Commissioner, Patna Division, Patna.

7. The order dated 4.4.2009 passed by the Collector, Patna and the order dated 24.9.2015 rejecting the appeal by the Commissioner, Patna Division, Patna are impugned in the instant writ application.

8. It is submitted by learned counsel for the petitioner that no good grounds have been given in the orders impugned for not paying the arrears of difference of salary for the period



that the petitioner was kept under suspension and also for the period that he was prevented from working as a result of an illegal order of dismissal which was subsequently set aside. As such it is submitted that the orders impugned be set aside, the writ application be allowed and the respondents be directed to pay the arrears of difference of salary for the aforesaid period.

9. The application is opposed by learned counsel appearing for the respondents. It is submitted that pursuant to the case of the petitioner having been remitted back to the authorities by order dated 28.2.2005 passed in CWJC no.14092 of 2003, the respondents proceeded against the petitioner. Though in the enquiry conducted against the petitioner in the departmental proceeding, at least in one of the enquiry reports, the charges against the petitioner had been found proved but the findings were otherwise in a subsequent enquiry. Taking into consideration these facts as also the fact of long pendency of the proceedings against the petitioner, it was decided to give benefit of doubt to the petitioner, holding him not guilty and only the arrears of difference of salary for the period that the petitioner had remained under suspension and had remained under dismissal was not paid. It is submitted that there is no illegality in the orders impugned, no merit in the writ application and as



such the same be dismissed.

10. Heard learned counsel for the parties and perused the material on record.

11. On perusal of the documents on record, it transpires that the relevant facts are that in the enquiry conducted in the departmental proceeding against the petitioner, the charges against the petitioner were not found to be proved. It further transpires from the contents of the order impugned dated 4.4.2009 that still another enquiry was started against the petitioner wherein the charges were found to be proved. It may only be observed here that this procedure is not in accordance with law. On submission of an enquiry report, the Disciplinary Authority only has two choices. Firstly, either to accept the enquiry report not finding the charges to have been proved and to close the proceedings and in case of any difference, to mention the difference and issue a second show-cause notice to the petitioner giving the points of disagreeing with the contents of the enquiry report.

12. It further transpires that subsequent to the conclusion of the enquiry and submission of the enquiry report by the Conducting Officer, the copy of the enquiry report was not provided to the petitioner and the order of punishment came



to be passed. It was this order of punishment which on being challenged in the writ application was set aside by order dated 28.2.2005 passed in CWJC no.14092 of 2003, however giving liberty to the authorities to proceed against the petitioner in accordance in law. The authorities/respondents thereafter proceeded against the petitioner and came to pass the order impugned dated 4.4.2009 under the signature of the Collector, Patna. A perusal of the said order would show that there is no mention as to what was the material that transpired against the petitioner in the enquiry conducted. Neither there is any mention of the oral or documentary evidence which were lead in the enquiry against the petitioner nor is there any finding on the same.

13. The respondents not having provided a copy of the enquiry report to the petitioner though they got a chance to proceed against the petitioner pursuant to the order dated 28.2.2005, this Court finds that once again the proceeding against the petitioner which has culminated in the order dated 4.4.2009 (Annexure-10) being passed has been a half-hearted approach.

14. This Court finds no reason for the respondents to have withheld the arrears of difference of salary for the period



of suspension as also for the period of dismissal from the petitioner.

15. In view of the facts and circumstances stated herein above, the Court finds that the order impugned dated 4.4.2009 (Annexure-10) passed by the Collector-cum-District Magistrate, Patna as also the order dated 24.9.2015 passed in Service Appeal no.130 of 2013 (Annexure-13) by the Commissioner, Patna Division, Patna are both unsustainable and set aside.

16. The respondent Collector-cum-District Magistrate, Patna shall pay the arrears of difference of salary to the petitioner for the period that he remained under suspension as also the period that the petitioner was prevented from working on account of the order of dismissal which was subsequently set aside within a period of three months from the date of receipt/production of a copy of this order.

17. With the above observations and directions, the writ application stands allowed with all consequential benefits.

(Partha Sarthy, J)

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CAV DATE	N/A
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