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18/6/14

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IN THE HIGH COURT OF JUDICATURE AT PATNA  
(CIVIL WRIT JURISDICTION)

C.W.J.C.NO.....OF 2014

Rajiv Kumar Thakur .....Petitioner

Versus

The State of Bihar &ors..... ..Respondents

Sub:-Removal/Dismissal/Termination *Matter*

IN D E X

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2. Annexure-1:	A medical certificate dated 18-11-2001	10 —
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SYNOPSIS OF THE CASE

RELIEFS

Petitioner a correspondence clerk at Madhepura in stastical department went on leave and struck with mental disease. Family members did not apprise him of the official communications made to the petitioner to return on the job so as not to aggravate the disease resulting in dismissal of the job. No departmental proceedings against him and hence this writ.

CHRONOLOGICAL EVENTS

1.28-07-2000	Transfer from Sahebganj to Madhepura .
2. 14-08-2000	Petitioner joining at Madhepura

3. 03.10.2000	Petitioner went on casual leave
4.18-11-2001	Doctors certificate of petitioners illness.
5.24-11-2001	Petitioner's removal from the job.
	Hence this writ petition

3. District Collector, Madhepura
4. District Statistics Officer, Madhepura

..... Respondents.

To

The Hon'ble Ms. Justice Rekha M.Doshit, the Chief Justice of the High Court of Judicature at Patna and Her other Companion Justices of the said Hon'ble Court.

The Humble petition on behalf of the Intervener-Respondent above named.

Most Respectfully Sheweth:-

1. That the petitioner prays for issuance of an appropriate writ preferably a writ of certiorari for quashing an order of dismissal/ termination/removal from services vide a letter dt 24-11-2001 contained in memo No.2652 and consequently direct the respondents to reinstate him as a correspondence clerk with all arrear salaries.

And/Or

Pass any other order/orders as your lordships deem fit and proper.

2. That the point involved in the petition is whether the order suffers from the vice of violation of Article 309 and 311 of the Constitution of India.
3. That the petitioner is a citizen of India and is living within the territorial jurisdiction of the High Court of Judicature at Patna.
4. That the petitioner was working as a correspondence clerk at Sahebganj from where he was transferred to Madhepura vide order no. 1-18 dated 28-07-2000 where he joined on 14-8-2000 in the office of statistics department.
5. That it is stated that on 3-10-2000 the petitioner went on casual leave for four days and he suffered a mental stroke admitted into a Government Hospital where

the stroke was diagnosed as depressive manic psychosis. A certificate to this effect was issued by the Director on 18-11-2001.

A medical certificate dated 18-11-2001 is annexed herewith and marked herewith and marked as Annexure- 1 to this petition.

6. That the petitioner during the period of his illness continued to apprise the authorities of his illness praying for extension of his leave and the petitioner has in his possession all the postal receipts of his application sent to the authorities ready to produce before this Hon'ble court as and when required to do so.
7. That meanwhile all the letter and intimation received from the office asking the petitioner to join were not shown to the

petitioner by the members of his family for fear of aggravating the disable.

8. That finally the letter of termination dt 24-11-2001 was also received but that was also not disclosed to the petitioner for the same reason.

A photo copy of the dismissal/ termination letter dt 24-11-2001 is annexed herewith and marked as Annexure-2 to this petition.

9. That the petitioner continued is remain under the spell of mental disease getting treatment from all or any doctor where there was any hope of improvement.
10. That the petitioner when he became comparatively normal he went to the office only to know that he has already been removed from the job and that the information has been sent to his home address.

11. That the petitioner got knowledge ~~is~~ after 5 years that he had been removed he again got a severe shock and the disease attacked him again and when he recovered again he came to Patna and saw a lawyer by the name of Lalan Kumar Varma and handed over the file informing all the papers relating to the service requesting him to file the case. the petitioner paid some nominal fee promising to pay the rest amount in a fortnight but returning home he was again attacked and when failing better he came to Patna and went to the lawyer where he was informed that the lawyer was no more and he could not retrieve the file back.
12. That the petitioner has managed to obtain only the removal letter and some photocopies of the postal receipts to show to the court and hopes under the peculiar circumstances that the court would be kind to him and be



pleased to call for the relevant papers if need be from the office concerned.

13. That it is stated that <sup>9/10</sup>in proceedings whatsoever were initiated against the petitioner or no notice or showcause was ever served which will be clear for the dismissal letter.
14. That it is stated that the removal letter is ~~a~~ casting a stigma on the petitioner of dereliction of duty and of indiscipline which can not be done without taking recourse to 309 and 311 ( both articles) of the constitution.
15. That petitioner has no alternative more suitable remedy then to file this application.
16. That the petitioner has not moved earlier in this Hon'ble court for the relief sought for in this petition.

It is, therefore, prayed that your Lordships may graciously be pleased

to admit this petition ,Issue Rule NISI, calling upon respondent to show cause as to why the relief sought for in this petition, be not allowed cause being shown if,any and after returned the rule make the rule absolute in favour of petitioner and after hearing the party or parties allow the same .

And/Or

May pass such other order or orders which may deem fit and proper for the ends of Justice.

And for this act of kindness, petitioner shall ever pray.

AFFIDAVIT

I, Rajiv Kumar Thakur, aged about 40 years, Son of Late Devendra Nath Thakur, a resident of village- Amba Goida, P.O- Ramchua, P.S. Shambhuganj, District- Banka, do here by solemnly affirm and state as follows:

1. That I am the petitioner of this case and as such am well acquainted with the facts and circumstances of this case.

2. That I have gone through the contents of this petition and understood the same, the statements made in paragraph No. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 are true to my knowledge and the statement made in paragraph Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 are true to my information derieved from records of this case and rests are by way of submission to this Hon'ble court.

3. That the annexures are true photo copies/typed copies of their respective originals.

15/10/2012 6/13

Pradyumn Kumar  
deponent

Priyadarshini  
to Mr. Sambhu  
H.C.

RIL 472114

17/1/14

बिहार सरकार

घोषणा विभाग

सांख्यिकी एवं मूल्यांकन निदेशालय।

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काओआओ संख्या स्था 2/नि 4-12/94 282 / पत्ना, दिनांक 24/11/2001

श्री राजीव कुमार ठाकुर, लिपिक/पत्राचार। जिला सांख्यिकी कार्यालय, मधेपुरा दिनांक 4.10.2000 से लगातार अनाधिकृत रूप से अनुपस्थित रहे हैं। जिला सांख्यिकी पदाधिकाारी मधेपुरा ने अपने निबंधित पत्रांक 221 दिनांक 8.11.2000, स्मार पत्रांक 246 दिनांक 9.12.2000 एवं निदेशालय के पत्रांक 339 दिनांक 10.2.2001 के द्वारा अक्लिम्बक पदस्थापित स्थान पर योगदान करने का निदेश दिया। परन्तु आदेश का अवहेलना करते हुए उन्होंने योगदान नहीं दिया।

पुनः दिनांक 23.6.2001 को दैनिक समाचार पत्र के माध्यम से सूचना प्रकाशित कर अक्लिम्बक कर्तव्य पर लौटने का निदेश दिया गया। यह भी सूचित किया गया कि पदभार नहीं ग्रहण करने पर उनकी सेवा समाप्त कर दी जायेगी। लेकिन इसकी भी अवहेलना श्री ठाकुर द्वारा की गई। अन्ततोगत्वा दिनांक 30.10.2001 को दैनिक समाचार पत्र के माध्यम से अक्लिम्बक अवतर पदभार करते हुए पुनः सूचना प्रकाशित की गई कि एक पक्ष के अन्तर्गत निरिक्त रूप से कार्यभार ग्रहण कर ले, अन्यथा सेवा समाप्त सम्झी जायेगी। लेकिन श्री ठाकुर द्वारा सभी आदेशों/निदेशों को अवहेलना कर योगदान नहीं दिये जाने की सूचना जिला सांख्यिकी पदाधिकारी, मधेपुरा के पत्रांक 256 दिनांक 19.11.2001 से प्राप्त हुई।

उपर्युक्त परिस्थिति में निदेशालय द्वारा इसकी पूर्ण समीक्षापरान्त यह बताया गया कि श्री राजीव कुमार ठाकुर, लिपिक/पत्राचार/अनुशासनहीन एवं कर्तव्य के प्रति लापरवाह स्वभाव का कर्मचारी है। अतः उन्हें अनाधिकृत रूप से अनुपस्थित रहने/अनुशासनहीनता/कर्तव्यहीनता/विभागीय निदेशों की अवहेलना करने आदि के आरोपों के लिए अनाधिकृत रूप से अनुपस्थित रहने की तिथि से सेवा से मुक्त किया जाता है।

24/11/2001

निदेशक

ज्ञानांक 2652पत्ना, दिनांक 24/11/2001

- प्रतिलिपि :-
1. सचिव, योजना एवं विकास विभाग, बिहार, पत्ना।
  2. जिला पदाधिकारी, मधेपुरा/जिला कोषागार पदाधिकारी, मधेपुरा।
  3. सभी जिला सांख्यिकी पदाधिकारी एवं
  4. श्री राजीव कुमार ठाकुर, पिता स्व. देवेन्द्र ठाकुर, ग्राम-भस्वा गोयड़ा, पो-राम्पुरा, थाना-गाम्भोज, जिला-बाँका को सूचना एवं आश्चर्यकारक कार्यवाई हेतु प्रेषित।

24/11/2001  
निदेशक

24/11/2001

अनेकसचर -2 (T.C.)

बिहार सरकार

योजना विभाग

सांख्यिकी एवं मुलयांकन निदेशालय

का० आ० संख्या स्था 2/नि 4-12/94 282 / पटना,  
दिनांक 24.11.2001

श्री राजीव कुमार ठाकुर, लिपिक (पत्राचार) जिला सांख्यिकी कार्यालय, मधेपुरा दिनांक 4.10.2000 से लगातार अनाधिकृत रूप से अनुपस्थित रहे है। जिला सांख्यिकी पदा० मधेपुरा ने अपने निबंधित पत्रांक 221 दिनांक 8.11.2000, स्मार पत्रांक 246 दिनांक 9.12.2000 एवं निदेशालय के पत्रांक 339 दिनांक 10.2.2001 के द्वारा अविलम्ब पदस्थापित स्थान पर योगदान करने का निदेश दिया। परन्तु आदेश का अवहेलना करते हुए उन्होने योगदान नहीं दिया।

पुनः दिनांक 23.6.2001 को दैनिक समाचार पत्र के माध्यम से सूचना प्रकाशित कर अविलम्ब कर्तव्य पर लौटने का निदेश दिया गया। यह भी सूचित किया गया कि पदभार नहीं ग्रहण करने पर उनकी सेवा समाप्त कर दी जायेगी। लेकिन इसकी भी अवहेलना श्री ठाकुर द्वारा की गई। अन्ततोगत्वा दिनांक 30.10.2001 को दैनिक समाचार पत्र के माध्यम से अन्तिम अवसर प्रदान करते हुए पुनः यह प्रकाशित

की गई कि एक पक्ष के अन्दर वे निश्चित रूप से कार्यभार ग्रहण कर लें, अन्यथा सेवा समाप्त समझी जायेगी। लेकिन श्री ठाकुर द्वारा सभी आदेशों/निर्देशों का अवहेलना कर योगदान नहीं दिये जाने की सूचना जिला सांख्यिकी पदाधिकारी, मधेपुरा के पत्रांक 256 दिनांक 19.11.2001 से प्राप्त हुई।

उपर्युक्त परिस्थिति में निदेशालय द्वारा इसकी पूर्ण समीक्षोपरान्त यह पाया गया कि श्री राजीव कुमार ठाकुर, लिपिक (पत्राचार) अनुशासनहीन एवं कर्तव्य के प्रति लापरवाह कर्मचारी है। अतः उन्हें अनाधिकृत रूप से अनुपस्थित रहने/अनुशासनहीनता /कर्तव्यहीनता/विभागीय निर्देशों की अवहेलना करने आदि के आरोपों के लिए अनाधिकृत रूप से अनुपस्थित रहने की तिथि से सेवा से मुक्त किया जाता है।

ह0-अस्पष्ट

24.11.2001

निदेशक

ज्ञापांक - 2652 /पटना, दिनांक - 24.11.2001

प्रतिलिपि- 1. सचिव, योजना एवं विकास विभाग, बिहार,

पटना

2. जिला पदाधिकारी, मधेपुरा/जिला कोषागार

पदाधिकारी, मधेपुरा

3. सभी जिला सांख्यिकी पदाधिकारी एवं

B (अगातर)

4. श्री राजीव कुमार ठाकुर, पिता स्व० देवेन्द्र  
ठाकुर, ग्राम अम्बा गोयड़ा, पो० रामचुआ, थाना  
शम्भुगंज जिला - बाँका को सुचनार्थ एवं आवश्यक  
कार्रवाई हेतु प्रेषित।

# MEDICAL CERTIFICATE

No.:

This is to certify that Mr. /Mrs./ Master/Miss/ ..... Rajiv Kumar Thakur  
..... resides Ambs Gairs Po. Ranchi (Bihar) .....

Age ..... 29 ..... Years      Diagnosis Depressive Manic Psychosis

Is under

- My treatment as an out-patient / in-patient at this clinic / hospital
- Was treated as an OPD patient from 12.10.00 to 18.11.01 .....
- Was admitted as an in-door patient on X ..... and discharged on X .....
- He / She had been advised rest for X ..... days from ..... to .....
- However He / She is further advised to continue rest from X ..... for another ..... days
- He / She is fit to resume normal duties from 19.11.01 .....

### Doctor's Name & Address with seal

Bijay Kumar Gupta  
CAS  
Sangrampur PHe  
(Munger)

Dr. Signature & Date

18/11/01  
डॉ० बिजय कुमार गुप्ता

Patient's Signature



GOVT. OF BIHAR  
REGISTRATION, EXCISE & PROHIBITION DEPT  
PATNA SCORE PATNA

COURT FEE

Authorization No. 2673



भारत  
INDIA

STAMP DUTY  
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Rs ≈ 0000285

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INDIA \*\*Zero\*Zero\*Zero\*Zero\*Two\*Eight\*Five\*\*\*

BIHAR  
JUDICIAL  
16.6.2014  
BIHAR  
6726 6288215

IN THE HIGH COURT OF JUDICATURE AT PATNA

( CIVIL WRIT JURISDICTION )

C.W.J.C.NO.....OF 2014

In the matter of an  
application under Article  
226 of the Constitution of  
India.

And

In the matter of :-

Rajiv Kumar Thakur, Son of Late Devendra Nath  
Thakur, a resident of village- Amba Goida, P.O-  
Ramchua, P.S. Shambhuganj, District- Banka  
..... Petitioner.

Versus

1. The State of Bihar through Director,  
Statistics and Evaluation Department, Govt  
of Bihar, Patna
2. Director , Statistics, Bihar, Patna