

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2871 of 2015

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1. Braj Nandan Singh Son of Late Rajendra Singh, R/o Village Bema Fatehpur,
P.S. Khijarsarai, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administrative Department, Govt. of Bihar, Patna.
2. The Principal Secretary, General Administrative Department, Govt. of Bihar, Patna.
3. The District Magistrate, Gaya, District Gaya.
4. The Additional Collector cum Conducting Officer, Gaya, District - Gaya.
5. The Sub Divisional Officer, Neemchak Bathani, District Gaya.
6. The Commissioner, Magadh Division, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sharda Nand Mishra, Advocate
		Mr. Deepak Kumar, Advocate
For the State	:	Mr. H.S. Roy, AC to AG

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 09-07-2018

Counsel for the petitioner is permitted to implead the Commissioner, Magadh Division as respondent no. 6 to the writ petition.

2. Heard learned counsel for the petitioner and the respondent State.

3. It is submitted by the counsel for the petitioner that the Enquiry Officer had submitted the enquiry report in his favour that the charges have not been proved. He submits that the matter was remanded to the Enquiry Officer by the Disciplinary Authority and



upon remand the charges have been found proved in the order dated 02.08.2014 issued by the Deputy Collector who was the Enquiry Officer without taking new evidence. Then petitioner has been visited with the punishment under order dated 15.11.2014 passed by the District Magistrate, Gaya under Rule 43 (B) of the Bihar Pension Rules withholding 25 percent of petitioner's pension and gratuity.

4. The counsel for the respondent State has raised an objection that the petitioner had an adequate remedy before the Commissioner by filing appeal which he has not availed. On such objection being raised, the counsel for the petitioner seeks permission to file his appeal before the Commissioner, Magadh Division against the order dated 15.11.2014 bearing memo no. 1941 issued by the District Magistrate, Gaya.

5. Let the petitioner file his appeal within a period of four weeks from today. Since the objection of alternative remedy has been raised by the counsel for the State, the respondent no. 6 would be obliged to consider the petitioner's appeal on merit within a period of eight weeks thereafter.

6. Writ petition is dismissed with the aforesaid direction.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

