

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1552 of 2024

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Ram Gopal Pandey Son of Shri Nand Kishore Pandey, resident of Village- Beni Nagar, P.O.-Sikandarpur, P.S.-Parshurampur, District-Basti, Uttar Pradesh, Pin-272129 (Retd. District Agriculture Officer, Jehanabad).

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Agriculture Department, Patna.
2. The Secretary, Agriculture Department, Patna.
3. The Departmental Enquiry Commissioner, General Administration Department cum Conducting Officer, Bihar, Patna.
4. The Under Secretary, Agriculture Department, Patna.
5. The Joint Director (Administration), Agriculture Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar
For the Respondent/s : Mr. Government Advocate 11

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 10-07-2025

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

2. This petition has been preferred by the
petitioner seeking following reliefs:

(i) For issuance of an appropriate writ/s, order/s, direction/s to the respondents for quashing notification dated 28.06.2023 contained in Memo No. 334 issued by the respondent whereby and under entire pension of the petitioner



has been withheld permanently as per provisions contained in Rule 139 of Bihar Pension Rules, 1950 after obtaining concurrence from Bihar Public Service Commission.

(ii) For issuance of an appropriate writ/s, order/s, direction/s to the respondents for quashing Memo No. 523 dated 27.09.2023 passed by the respondents whereby and under the application/ representation filed by the petitioner for reappraisal of his punishment order has been turned down and rejected.

(iii) For issuance of an appropriate writ/s, order/s, direction/s to the respondents for making payment of cent percent pension to the petitioner after quashing notification dated 28.06.2023 and order dated 27.09.2023 along with consequential relief if any.

(iv) To pass such other order/orders as your Lordships may deem fit and proper in the facts and circumstances of this case.

3. The brief facts of the case is that at the relevant time, the petitioner was posted as District Agricultural Officer.



On the basis of one complaint made by the complainant Chandan Kumar, raid was conducted. The petitioner was caught hold by the team taking bribe of Rs. 15,000/- and a Vigilance Case No. 58 of 2011 was registered against him. He was taken into custody also. On the same allegation, a separate charge memo was issued to the petitioner on 20.10.2021. The petitioner submits his show cause on 25.09.2012 and also submits his supplementary show cause on 14.12.2012 denying all the charges levelled against him. The enquiry officer submitted his enquiry report (Annexure-P/6) dated 02.02.2023. Second show cause was issued to the petitioner and subsequently vide order dated 26.06.2023 (Annexure-P/9), petitioner has been awarded punishment withholding permanently his entire pension, as contained in Rule 139 of the Bihar Pension Rules, 1950. The petitioner preferred the representation, which has also been rejected vide order dated 27.09.2023, as contained in Memo No. 523 dated 27.09.2023 and hence, this petition.

4. Learned counsel for the petitioner submits that in the charge memo, there were thirteen charges, which were framed against the petitioner. However, no list of witnesses were prepared nor provided to the petitioner. He further submits that during course of enquiry also none of the witnesses were



examined by the department to prove the charges levelled against the petitioner, nor any documents were tendered by any of the witness during course of enquiry. He further submits that the enquiry officer withheld his opinion with regard to the charge no.1 as Vigilance Case No. 58 of 2011 is pending against him. However, the enquiry officer found all other charges proved, which is not based upon the materials available on record. He further submits that the enquiry officer found charges proved only on the ground that the petitioner has not rebutted the charges levelled against him nor the petitioner produced any witness in his favour. Thus, the enquiry officer wrongly shifted the burden of proof to the petitioner. According to the counsel, it is a case of no evidence and disciplinary authority while passing the impugned orders also not considered this aspect.

5. Reliance has been placed by the counsel to the judgment passed by the Hon'ble Supreme Court in the case of ***Roop Singh Negi versus Punjab National Bank & Others*** reported in ***2009(2) SCC 570*** and in the case of ***State of Uttar Pradesh & Others Vrs. Saroj Kumar Sinha reported in 2010 (2) SCC 772.***

6. Learned counsel for the respondents-Sate opposes the arguments raised by the counsel for the petitioner



and submits that considering the materials available on record, the enquiry officer has rightly arrived at the conclusion that all the charges levelled against the petitioner are duly proved and on the basis of enquiry report, the disciplinary authority also passed the impugned order.

7. Heard both the counsels appearing for the parties and perused the documents annexed with the petition as well as the counter affidavit.

8. Perusal of the charge memo clearly shows that total 13 charges were levelled against the petitioner. With the charge memo, no list of witnesses was prepared nor provided to the petitioner nor during course of enquiry any of the witnesses were examined by the department. The charge memo further shows that for establishing the allegation against the petitioner, two documents were relied. However, those documents were also not proved by any of the witness during course of enquiry. The finding as recorded by the enquiry officer in his enquiry report clearly shows that only on the basis of the fact that the petitioner has not rebutted the allegations levelled against him, nor submits his defence witness and the enquiry officer arrived at the conclusion that the charges levelled against the petitioner are duly proved. The above findings recorded by the enquiry



officer is perverse. Virtually, the enquiry officer shifted the burden of proof to the petitioner himself.

9. Since the department has not produced any witness during course of enquiry orally or documentary, therefore, the finding as recorded by the enquiry officer is not in accordance with the materials available on record. Virtually, it is a case of no evidence and the enquiry officer has wrongly arrived at the conclusion that the chargers levelled against the petitioner are duly proved. Thus, disciplinary authority also not considered this aspect of the matter and passed the order. Taking into consideration the above, this Court finds that on this ground alone the impugned orders are liable to be set aside.

10. Accordingly, the petition is allowed. The impugned orders dated 27.09.2023 (Annexure-P/11) and 28.06.2023 (Annexure-P/9) are hereby set aside.

11. The petitioner is entitled to get all retiral benefits applicable to him which will be done within a period of three months from today.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.07.2025
Transmission Date	NA

