

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 8020 of 2023

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Shyam Kumar Yadav Son of late Kari Yadav, Resident of House No. A/202, Ribhya Residency, Near Prathmic School, Rukanpura, Bailey Road, Police Station- Rupaspur, District-Patna-800014.

... .. Petitioner/s

Versus

1. The State of Bihar Through Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, General Administrative Department, Government of Bihar, Patna.
4. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
5. The Engineer-in-Chief, Flood Control and Drainage, Water Resources Department, Patna.
6. the Engineer-in-Chief, Headquarter, Water Resources Department, Patna.
7. The Assistant Engineer, Office of The Engineer-in-Chief, Headquarter, Water Resources Department, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar
For the Respondent/s : Mr.Vinay Kirti Singh (Ga 2)

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 26-06-2025

This petition has been preferred by the petitioner for quashing the order dated 10.10.2022 by which the Disciplinary Authority imposed punishment of stoppage of 100% pension of the petitioner and also challenged the order dated 31.05.2023 whereby the review petition preferred by the petitioner has also been rejected.



2 Brief facts of the case are that at the relevant time, the petitioner was working on the post of Executive Engineer, Flood Control Division – 02, Jhanjharpur, Madhubani, Water Resources Department, Government of Bihar. On the basis of certain allegations, a departmental proceeding has been initiated against the petitioner. Prapatra Ka was issued which was replied by the petitioner and he asked for certain documents which were not provided to him. Subsequently, vide Resolution dated 16.10.2020, a departmental proceeding has been initiated against the petitioner and the Enquiry Officer in his first enquiry report dated 24.02.2021 arrived on the conclusion that all the charges levelled against the petitioner were not proved. The report submitted by the Enquiry Officer was not palatable to the authorities. The higher authorities directed the Enquiry Officer to record the statements of witnesses and the matter was remitted back to the Enquiry Officer for a fresh enquiry. On the basis of said, the Enquiry Officer again enquired the matter and recorded the statement of one witness, namely, Rajesh Kumar and in his second enquiry report dated 17.09.2021, arrived on the conclusion that some of the charges levelled against the petitioner were found proved and some were not found proved. On the basis of said enquiry report, the Disciplinary Authority passed the order of



stoppage of 100% pension of the petitioner which has also been upheld by the authorities. Hence, this petition has been preferred.

3 Learned counsel for the petitioner would submit that the matter was remitted back for a fresh enquiry to the Enquiry Officer on the basis of order passed by the concerned Minister which is bad in law as the Minister was not empowered to pass such type of order. Therefore, on this ground only, the second enquiry conducted by the Enquiry officer and all subsequent proceedings and orders passed by the authorities are liable to be set aside. He further submits that once the Enquiry Officer, in his first enquiry report, arrived on the conclusion that none of the charges levelled against the petitioner were proved then only on one line statement of the witness, in his second enquiry report, he wrongly arrived on the conclusion that some of the charges levelled against the petitioner were duly proved. The above conclusion recorded by the Enquiry Officer is not acceptable. According to the learned counsel, while passing the order of punishment and deciding the review, the authorities also did not consider these aspects. He further submits that on the same allegations, the departmental enquiry has been initiated against one Om Prakash and Yogendra Kumar who were working as Sub Divisional Officer and Junior Engineer respectively in the same



office and in their case also, in his first enquiry report dated 24.02.2021, the Enquiry Officer arrived at the conclusion that all the charges levelled against both of them were not proved. Subsequently, on the direction given by the higher authorities, the Enquiry Officer recorded the statement of witnesses and again submitted the second enquiry report holding that some of the charges were proved and some were not proved. Both the persons Om Prakash and Yogendra Kumar were dismissed from the services. Both of them filed separate petition being CWJC No 7875 of 2023 and CWJC No 7869 of 2023 which have been allowed by this Court vide its order dated 16.06.2025 on the ground that the concerned Minister is not empowered to pass such type of order for initiating fresh enquiry. According to the counsel, case of the petitioner is also identical to the case of similarly situated other persons, namely, Om Prakash and Yogendra Kumar. Therefore, learned counsel for the petitioner prays that in the light of above, this petition may also be allowed.

4 Learned counsel for the respondent-State submits that facts of this case are identical and squarely covered with the judgment passed by this Court, as referred herein above.

5 Considering the submission made by the learned counsel for the parties and on perusal of the documents annexed



with the writ petition as well as counter affidavit, rejoinder etc, it is quite clear that in the first enquiry report dated 24.02.2021, the Enquiry Officer, without recording the statements of any of the witnesses, arrived on the conclusion that all the charges levelled against the petitioner are not proved. Subsequently, when the matter was placed before the concerned Minister then it was found that the Enquiry Officer has not recorded the statement of any of the witnesses cited in the charge sheet and, therefore, he passed the order for remitting back the matter for recording the statements of the witnesses. Perusal of Rules 22 (1) and 22 (4) of the Rules of Executive Business, 1979, it is apparent that the departmental Minister is not empowered to pass such type of order.

6 Therefore, on this ground only, the impugned orders dated 10.10.2022 and 31.05.2023 are liable to be set aside and is hereby set aside.

7 The respondents are directed to see that pensionary benefits applicable to the petitioner be given to him within one month from the date of receipt of a copy of this order.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.06.2025
Transmission Date	NA

