

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 9684 of 2023

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Bhanu Prakash S/o Late R.D. Prasad Resident of New Area Bisar Road,
Gaya, P.O. and P.S. - Civil Line, District- Gaya, Pin - 823001, Presently
residing at 302 Miru Sumanglam Appt, Near Nisha Devi Mandir, East,
Lohinipur, Kadamkuan, Patna 800003.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department Government of Bihar Patna.
2. The Principal Secretary, General Administration Department Government of Bihar, Patna.
3. The Under Secretary, General Administration Department Government of Bihar, Patna.
4. The District Magistrate, Begusarai.
5. The Bihar State Election Commissioner, Patna.
6. The Joint Election Commissioner, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Ranjeet Kr, Kanishk Kaustubh, Shikhar Mani, Lakshmi Kri, Rajnish Prakash, Ankesh Kr Sinha, Advocates
For the S t a t e	:	Mr Manish Kumar, GP IV
For the Bihar State Election Commission	:	Mr Ravi Ranjan, Advocate

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 22-04-2025

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

***“(I) For quashing of order/resolution
as contained in memo No 2325 dated 19.02.2021
issued by the Under Secretary, Government of
Bihar, Patna under the orders of the Governor
of Bihar (which was communicated to the
petitioner vide letter No 3597 dated 21.02.2023),***



whereby and where under an order of punishment has been passed against the petitioner:-

(A) Censure for the year 2008-09.

(B) Withholding of one increment of pay without cumulative effect, in most arbitrary, illegal and unreasonable manner.

(II) For quashing of the letter No 4676 dated 25.05.2009 issued under the signature of Under Secretary to the Government whereby and where under Prapatra KA was issued to the petitioner.

(III) For any other appropriate relief/reliefs to which the petitioner is found entitled in the facts and circumstances of this case.”

2 Brief facts of the case are that in the year, 2008-2009, the petitioner was posted as Block Development Officer, Bhagwanpur, Begusarai. On 25.05.2009, a charge memo was issued by the District Magistrate in ***Prapatra Ka*** against the petitioner and departmental proceeding was initiated giving show cause to the petitioner. It was alleged that the petitioner was not competent enough to call for meeting and other related charges. In compliance of the letter dated 25.05.2009, the petitioner filed his detailed reply vide his letter dated 20.06.2009 (Annexure 2). Subsequently, the petitioner was transferred from the said post and was posted as Settlement Officer, Araria. Since the matter was kept pending and no reply was received, the petitioner was of the



view that the proceeding might have been dropped but when petitioner's name was under consideration for promotion to Indian Administrative Service, due to the fact that the matter is still pending, his name could not be considered for promotion. The petitioner made several requests to drop the proceedings pending against him but no action was taken by the respondents. Suddenly, on 11.02.2021, the GAD reframed the charge memo and obtained the approval of the Disciplinary Authority but the same charge memo (Annexure R-1/5) could not be supplied to the petitioner and on 19.02.2021, the Disciplinary Authority passed the impugned order (Annexure 5) whereby he imposed the minor penalties against the petitioner of censor for the year 2008-2009 and stoppage of one annual increment of pay without cumulative effect. According to the pleadings of the petitioner, the said order of punishment has also not been supplied to the petitioner and it has been supplied to the petitioner first time through communication dated 21.02.2023 (Annexure 7). Hence, this petition.

3 Learned counsel for the petitioner would submit that along with the charge memo, no list of witnesses and list of documents were provided to the petitioner. Subsequently when the charges were reframed then also list of documents and list of



witnesses were not provided to the petitioner though the same were prepared. He further submits that in this matter, neither any Enquiry Officer nor any Presenting Officer was appointed. Without conducting any enquiry, just few days of reframing of the charge, the Disciplinary Authority passed the impugned order whereby the petitioner has been punished. According to the counsel, initial charge memo was issued on 25.05.2009 (Annexure 1). Reply of the said show cause was filed by the petitioner on 20.06.2009 related to charge levelled against him but the Department has not taken any further steps and kept mum till passing of impugned order dated 19.02.2021 (Annexure 5) which has also not been provided to the petitioner for the reason that the name of the petitioner was to be considered for his promotion as the Officer of Indian Administrative Service, therefore, the entire action taken by the respondents is clearly biased.

4 Learned counsel for the respondent-State opposes the argument raised by the learned counsel for the petitioner and submits that taking into consideration the opinion received from the Election Commission and other authorities, the Disciplinary Authority passed the impugned order of punishment. He further submits that before passing of such order, the Disciplinary Authority duly obtained the approval of the competent authority



and reframed the charges and, thereafter, on the basis of materials available with him, passed the impugned order.

5 I have heard learned counsel appearing for both the parties, perused the documents annexed with the petition as well as the counter affidavit and rejoinder of the petitioner.

6 Undisputably when the first charge memo was issued in the year 2009 (Annexure 1), no list of witnesses or list of documents were prepared nor provided to the petitioner. The show cause has been filed by the petitioner on 20.06.2009. Even after that, the respondents did not pass any order and kept mum. The respondent-State in its counter affidavit and supplementary counter affidavit, has not mentioned the fact that at any point of time, any Enquiry Officer or Presenting Officer was appointed. They were also unable to produce any enquiry report conducted by any Enquiry Officer rather the documents submitted by the respondent-State itself shows that the reframed memo of article of charges (Annexure R1/5) was prepared and signed on 11.02.2021. There is no material shown by the respondents that this charge memo was ever served on the petitioner. The impugned order has been passed by the Disciplinary Authority on 19.02.2021, i.e., just after few days after signing the reframed charge memo. Thus, it is quite clear that though charge memo was reframed on 11.02.2021 but no



enquiry was conducted by any person and without getting any statement of witness or without proving any document from any of the witness, the Disciplinary Authority passed the impugned order of punishment against the petitioner.

7 A categorical statement has been made by the petitioner that the impugned order of punishment has been served upon him through communication dated 21.02.2023, i.e., after two years of passing of the impugned order of punishment. The above statement of the petitioner has been supported by the communication dated 21.02.2023 (Annexure 7). The above averment made by the petitioner has not been duly rebutted by the respondents in their counter affidavit. Thus, it is also clear that the order of punishment (Annexure 5) has been communicated to the petitioner after two years of passing of the said order. Therefore, this Court finds substance in the argument raised by the counsel that only to deprive the petitioner to get promotion, all the documents were prepared.

8 Taking into consideration the above discussion, I am of the view that the impugned order dated 19.02.2021 (Annexure 5) is liable to be and is hereby quashed and set aside.

9 The petitioner is entitled to get all consequential benefits applicable to him.



10 The writ petition is allowed.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.04.2025
Transmission Date	NA

