

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 10101 of 2024

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Alok Kumar Gupta Son of Late Shankar Prasad, Resident of Road No. 2
Village - Talkhapur, Opposite of Bagmati Colony, Kishori Nagar, Dumra,
District-Sitamarhi.

... .. Petitioner/s

Versus

1. The Bihar Industrial Area Development Authority (BAIDA) Udyog Bhawan, Gandhi Maidan, Patna through its Managing Director.
2. The Managing Director, Bihar Industrial Area Development Authority (BAIDA), Udyog Bhawan, Gandhi Maidan, Patna.
3. The Joint Managing Director, Bihar Industrial Area Development Authority (BAIDA), Udyog Bhawan, Gandhi Maidan, Patna.
4. The Executive Director (Operations), Bihar Industrial Area Development Authority (BAIDA), Patna.
5. The DGM, Bhagalpur Cluster, Bihar Industrial Area Development Authority (BAIDA), Patna.
6. Sri Shiv Kumar, DGM, Bhagalpur Cluster, Bihar Industrial Area Development Authority (BAIDA), Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Brisketu Sharan Pandey, Advocate
For the Respondent/s : Mr Parth Gaurav, Advocate

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 30-06-2025

This petition has been preferred by the petitioner being aggrieved with the office order dated 30.09.2023 (Annexure P/4) whereby and where under the petitioner has been removed from the service. Also challenged the order dated 29.05.2024 (Annexure P/4) whereby and where under the appeal preferred by the petitioner has also been rejected.



2 Brief facts of the case are that the petitioner was appointed on the post of Executive vide letter dated 01.09.2007 (Annexure R/2) on contractual basis. His services were extended from time to time. When the petitioner was posted in Bhagalpur cluster, on the basis of certain complaints, he was served a show cause notice dated 24.08.2023 (Annexure P/1) and was asked to reply within three days after receipt of the letter. The petitioner offered his reply on 31.08.2023. Subsequently, a second show cause notice dated 02.09.2023 was issued to the petitioner. Since the reply of the show cause has been given by the petitioner directly to the Executive Director, therefore, on this ground and on some other grounds, vide impugned order dated 03.10.2023, the petitioner has been removed from the services. Hence, this petition.

3 Learned counsel for the petitioner would submit that though the appointment of the petitioner was contractual but on the basis of recommendation by the High Level Committee, the Government of Bihar issued Memo No 12534 dated 17.09.2018. The decision of the State Government contained in Memo No 12534 manifestly mentions about Bihar Industrial Area Development Authority (for brevity, **BIADA**) under the aegis of the Department of Industry in Table No 19 mentioned in Appendix



A and BIADA was directed to implement Clauses 1, 3, 4, 5, 7 and 10 of the recommendation of the High Level Committee. Clause 1 of the recommendation of the High Level Committee states that the appointment and the services of the contractual workers shall be considered to be permanent and shall come to an end either on the day such posts/positions are in force or till such posts are made permanent in nature. Therefore, the petitioner is entitled to continue in his services till attaining the age of 60 years. It is also submitted that though the petitioner was contractual employee but order of termination is a stigmatic order and, therefore, a full fledged enquiry, according to the Rules, was required but the Department has not done so and the Authority mechanically passed the impugned order of termination. The Appellate Authority also did not consider the grounds of appeal raised by the petitioner and rejected the appeal in most arbitrary manner.

4 In support of the contention put forth, learned counsel for the petitioner has placed reliance on the decision in the case of ***Dr Vijaykumaran CPV -Versus- Central University of Kerala & Others, (2020) 12 Supreme Court Cases 426.*** Also reliance has been placed by him on the judgment dated 10.02.2025 passed by this Court in the case of ***Anuj Shukla -Versus- The Bihar Industrial Area Development Authority (BIADA) & Others.***



5 Learned counsel for the respondent-State opposes the argument raised by the counsel for the petitioner and submits that since serious misconduct has been done by the petitioner, therefore, he has rightly been removed from the service.

6 I have heard learned counsel for the parties and perused the orders impugned.

7 Undisputedly, the petitioner herein was appointed on contractual basis in the year, 2007 and was getting continuous extension of his services. Show cause notice (Annexure P/1) issued to the petitioner shows that six allegations regarding irregularities have been levelled against him including disobedience of senior officers. Thus, it is quite clear that allegation of misconduct was made against the petitioner and on the ground of misconduct only, he has been terminated. The order of termination clearly shows that it has been passed making stigma against the petitioner regarding his misconduct.

8 The Supreme Court, in the case of *Dr Vijaykumaran CPV (supra)* observed and held in paragraphs 8, 10, 11 and 13 as under:

“8. It is well-established position that the material which amounts to stigma need not be contained in the order of termination of the probationer, but might be contained in “any document referred to in the termination order”. Such reference may inevitably affect the future



prospects of the incumbent and if so, the order must be construed as ex facie stigmatic order of termination.

10. In Pavanendra Narayan Verma v Sanjay Gandhi PGI of Medical Sciences, the Court observed thus: (SCC p 528, para 21)

“21. One of the judicially evolved tests to determine whether in substance an order of termination is punitive is to see whether prior to the termination there was (a) a full-scale formal enquiry (b) into allegations involving moral turpitude or misconduct which (c) culminated in a finding of guilt. If all three factors are present the termination has been held to be punitive irrespective of the form of the termination order. Conversely if any one of the three factors is missing, the termination has been upheld.”

11. In the present case, all the three elements are attracted, as a result of which it must follow that the stated order is ex facie stigmatic and punitive. Such an order could be issued only after subjecting the incumbent to a regular inquiry as per the service rules.

13. ..., we have no hesitation in concluding that the impugned termination order dated 30.11.2017 is illegal being ex facie stigmatic as it has been issued without subjecting the appellant to a regular inquiry as per the service rules.”

9 In the light of above observation made by the Supreme Court and on examination of the facts of this case that a stigmatic order against the petitioner has been passed, therefore, a full fledged departmental enquiry was required. Thus, this Court finds



that the order impugned passed by the authorities are liable to be set aside.

10 Therefore, both the orders impugned dated 30.09.2023 and 29.05.2024 are hereby quashed.

11 The petition is allowed.

12 Respondents are directed to reinstate the petitioner within three months from the date of receipt of a copy of this order.

13 Respondents are at liberty to proceed with further, if they so advised, against the petitioner in accordance with the relevant rules.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.07.2025
Transmission Date	NA

