

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 2479 of 2021

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Ashwani Kumar Son of Ram Autar Katiyar Resident of 38 A, near Pashupati Narayaneshwar Mahadeo Temple, Narayan Nagar, Indira Nagar, P.S.- Indira Nagar, District- Lucknow (U.P.) presently posted as District- Agricultural Officer, Aurangabad, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Patna.
2. The Secretary, Agricultural Department, Bihar, Patna. Bihar
3. The Director, Directorate of Agriculture, Bihar, Patna. Bihar
4. The Director, Soil Conservation, Bihar, Patna-cum-Inquiry Officer, Patna. Patna
5. The District Magistrate Kaimur at Bhabua

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar
For the Respondent/s	:	Mr Anant Pd Singh, SC XV
		Ms Deepika Sharma, AC to SC XV

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 29-08-2025

Initially the petitioner has filed the petition seeking the following reliefs:

“(i) For issuance of an appropriate writ/s order/s, direction/s to the respondents to exonerate the petitioner in departmental proceeding which was initiated in July 2001 and has not been concluded till date though the petitioner had faced ordeal of departmental proceeding for 20 long years.

(ii) For issuance of an appropriate writ/s, order/s, direction/s to the respondents to take appropriate action upon the enquiry report submitted by respondent No 4 and approved by



respondent No 3 in October 2003 itself so that justice may be done to the petitioner.

(iii) For issuance of an appropriate writ/s, order/s, direction/s to the respondents to start de novo enquiry in case of the petitioner since no regular enquiry has been conducted and the petitioner was not granted opportunity to cross examine those complainants who alleged mal practice of the petitioner and basing upon which respondent No 2 is hell bent to harass him.”

2 During pendency of the petition, Memo No 180 dated 25.03.2021 has been issued by the respondents whereby and where under the petitioner has been inflicted with the punishment of compulsory retirement from the services. Therefore, relief No (iv) has been incorporated by the petitioner through I A No 1 of 2021 after getting approval from this Court which is as follows:

(iv) For issuance of an appropriate writ/s, order/s, direction/s for quashing Memo No 180 dated 25.03.2021 issued by the respondents whereby and where under the petitioner has been inflicted with the penalty of compulsory retirement from his services.”

3 The facts of the case are that the petitioner was posted as Project Executive Officer, Mohania, Kaimur from January, 1996 to March, 2000. As per the Government scheme, namely, Indira Awas Yojna, some construction was to be done under the Rural Works Department in the district of Kaimur and particularly in Block – Mohania by special order of the District Magistrate. The



work of Indira Awas Yojna was allotted to the petitioner. In the month of March 2000, a complaint was made against the petitioner before the SDO, Mohania that he demanded commission from the beneficiaries of Indira Awas Yojna. It was further alleged that the petitioner has demanded Rs 1,800/- from some of the beneficiaries. On the basis of the said complaint, preliminary enquiry was conducted and on the basis of preliminary report, charge memo was prepared against the petitioner and departmental enquiry was initiated against him vide Memo No 976 dated 31.07.2002 (Annexure P/2). The Enquiry Officer, in his enquiry report (Annexure P/5), exonerated the petitioner from all the charges levelled against him. Without taking any appropriate decision upon the recommendation made by the Enquiry Officer, a report was called for from the District Magistrate, Kaimur, Bhabhua. In compliance of said, the District Magistrate sent his opinion (Annexure P/6). On the basis of said opinion sent by the District Magistrate, the proposal of major punishment was made to the petitioner and the file was sent for approval to the concerned Minister. Due to some technical grounds, the file was pending for approval. Various correspondences were made by the Department. Since, no decision was being taken by the respondents and de novo enquiry has been pending against him for the last 20 years,



therefore, he preferred the writ petition in the year, 2021. During pendency of the writ petition, the impugned order (Annexure P/25) dated 25.03.2021 has been passed whereby the petitioner has been awarded the punishment of compulsory retirement from his services.

4 Learned counsel for the petitioner would submit that along with the charge memo, no list of witness was prepared nor any witness was examined during the course of enquiry and the Enquiry Officer himself exonerated the petitioner from all the charges levelled against him. In spite of that, the Disciplinary Authority, without recording his opinion regarding deferring with the opinion given by the Enquiry Officer, obtained the comment from the District Magistrate and the file was sent to the concerned Minister. He further submits that though vide Annexure P/25, the petitioner has been compulsorily retired from the services, which is a major punishment, but that punishment has been inflicted on the petitioner without conducting any legal enquiry. After submission of the reply of second show, again Enquiry Team was constituted and the said Enquiry Team recorded the statement of 21 beneficiaries and on the basis of the said enquiry report, the petitioner has been awarded the punishment of compulsory retirement. According to the counsel, at the time of the said



enquiry, the petitioner was not called for nor he participated in the said enquiry nor he has been given any opportunity to cross examine the beneficiaries whose statements were recorded by the Enquiry Team. He further submits that the enquiry report of the Enquiry Team has also not been supplied to the petitioner nor any show cause was obtained from him in this regard. Therefore, the entire action taken by the respondents appears to be bad in law.

5 Learned State Counsel opposes the argument raised by the learned counsel for the petitioner and submits that taking into consideration the material available on record, the impugned order dated 25.03.2021 (Annexure P/25) has rightly been passed by the concerned authority.

6 I have heard learned counsel for both the parties, perused the documents annexed with the writ petition and the counter affidavit.

7 Perusal of the charge memo clearly shows that along with the charge memo, neither list of witness nor list of document was prepared nor provided to the petitioner. The report of the Enquiry Officer (Annexure P/5) further shows that taking into consideration the material available before him, it was found by him that the charges levelled against the petitioner are not proved. Annexure P/6, i e, the opinion of the District Magistrate, Kaimur,



Bhabhua further shows that without any legal evidence available on record, it was opined by him that the charges levelled against the petitioner are duly proved. On the basis of said opinion given by the District Magistrate, the matter was pending before the respondents for a long period, i.e., about 16 years. The record further shows that after filing of this writ petition, the order impugned (Annexure P/25) has been passed by the respondents whereby the petitioner has been given the punishment of compulsory retirement which is a major punishment.

8 The impugned order (Annexure P/25) clearly shows that only on the basis of report given by the Enquiry Team, the Disciplinary Authority arrived on the conclusion that the explanation submitted by the petitioner is not acceptable and charges levelled against him are duly proved. The said order further shows that the Enquiry Team was constituted on the basis of reply of second show cause filed by the petitioner. Though the Enquiry Team recorded the statements of 21 beneficiaries, but facts remain that at the time of enquiry, the petitioner was not present nor any opportunity of cross examination of those beneficiaries were provided to him. The impugned order further shows that the said enquiry report also was not provided to the



petitioner nor on this enquiry report, any further show cause was issued to the petitioner.

9 Therefore, the order impugned (Annexure P/25), which has been passed upon the said enquiry report, is liable to be set aside on this ground alone.

10 Accordingly, this writ petition is allowed and the order impugned dated 25.03.2021 (Annexure P/25) is hereby set aside.

11 The petitioner is directed to be reinstated in his services within one month from today.

12 The petitioner will be entitled to get all his consequential benefits.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	30.08.2025
Transmission Date	NA

