

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12384 of 2023

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Rohit Kumar Son of Raman Bhagat, Resident of Village- Mohana, P.S.-
Katra, Tehwara, District- Muzaffarpur, Bihar- 843321.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Additional Chief Secretary-cum-Appellate Authority, Revenue and Land Reforms Department, Government of Bihar, Old Secretariat, Bailey Road, Patna- 800015.
3. The Director, Land Records and Survey Directorate, Revenue and Land Reforms Department, Government of Bihar, Survey Training Center, Shastri Nagar, Patna- 800023.
4. The Assistant Director, Land Records and Survey Directorate, Revenue and Land Reforms Department, Government of Bihar, Survey Training Center, Shastri Nagar, Patna- 800023.
5. The District Magistrate, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shrishti Singh Mr. Pranav Kumar
For the Respondent/s	:	Mr. Birendra Prasad Singh AC to SC - 19

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
C.A.V. JUDGMENT

Date : 22-04-2025

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

i) To issue an appropriate writ, order, direction in the nature of certiorari for quashing the order bearing memo no. 4704 dated 05.06.2023 issued under the signature of the Additional Chief Secretary-cum-Appellate Authority, Revenue and Land Reforms Department, wherein the



order bearing memo no. 1073 dated 19.01.2023 issued under the signature of the Director, Land Records and Survey Directorate, Revenue and Land Reforms Department, terminating contract of the petitioner for the post of Special Survey Amin has been affirmed (Annexure-9).

ii) To issue an appropriate writ, order, direction in the nature of certiorari for quashing the order bearing memo no. 1073 dated 19.01.2023 issued under the signature of the Director, Land Records and Survey Directorate, Revenue and Land Reforms Department, wherein the contract of the petitioner for the post of Special Survey Amin has been terminated (Anneure-7)

iii) To issue an appropriate writ, order, direction in the nature of mandamus commanding the respondents to restore the petitioner on the contractual post of Special Survey Amin with consequential benefits.

iv) To any other relief for which the petitioner appears to be found entitled by the Hon'ble Court.

2. As per the pleadings brief facts of the case is that the petitioner was appointed on the post of Special Survey Amin on contractual basis on 31.03.2020 for a period of 11 months with further extension permissible. The last such extension was



for a period of 2 years from 01.04.2022 to 31.03.2024. During this period, the petitioner and more than 500 contractual employees were issued the separate same show cause notices on 18.01.2023 alleging therein that they were obstructed the work. Show cause has been replied by the petitioner on 19.01.2023. Other persons against whom also a show cause was issued on 18.01.2023 were also furnished their reply exactly the same as submitted by the petitioner. However, only the contract of the petitioner was terminated on 19.01.2023 itself by the impugned order, Annexure-7, on the ground that the response of the petitioner was not satisfactory. It was also alleged that petitioner has not discharged his work satisfactorily. Against the order of termination, an appeal Annexure-P/8 has been preferred by the petitioner on 24.01.2023, which was dismissed vide order dated 05.06.2023 by the appellate authority i.e. Annexure-9. At this stage, a new ground has been added that the petitioner has threatened the officers. Hence, this petition has been preferred by the petitioner.

3. Learned counsel for the petitioner submits that the impugned orders are the stigmatic and therefore, required proper departmental hearing. Despite repeated request, the report of the settlement officer on the basis of which show cause notice has



been issued to the petitioner was not supplied to the petitioner. No other documents or witnesses were examined before passing the impugned orders. The explanation submitted by the petitioner was also not considered and new charges were levelled at the stage of dismissal order as well as appellate order without affording the petitioner an opportunity to furnish his explanation. He further submits that identical show cause has been issued against more than 500 contractual employees and the same reply has been furnished by them. Their reply was found satisfactory but arbitrary response was found that the reply submitted by the petitioner is not satisfactory and his services has been terminated, which shows the malice of the respondents. There has been no iota of evidence to substantiate the claim that the petitioner had provoked the other employees or indulged in illegal activities, and no such finding has been recorded in the orders. Therefore, in these grounds both the impugned orders are liable to be set aside.

4. Learned counsel for the petitioner in support of his contention placed reliance on the decisions in the case of ***GRIDCO Ltd. & Anr. Vrs. Sadanand Doloi & Ors. (2011) 15 SCC 16, Bipin Kumar Singh & Anr. Vrs. The State of Bihar & Ors. (2022) 1 BLJ 286, State of UP Vrs. Ram Swarup Saroj***



***(2000) 3 SCC 699 and Anuj Shuckla Vrs. The BIADA & Ors.
in C.W.J.C. No. 18494 of 2024.***

5. Learned counsel for the State opposes the arguments raised by the counsel for the petitioner and submits that keeping in view the serious nature of the allegations and on due consideration to the show cause explanation submitted by the petitioner, it was found that the work of the petitioner is not satisfactory. Therefore, invoking the power under Rule 8(4) of the Bihar Special Survey Honorarium based Contractual Employment Rules, 2019, the impugned orders have been rightly passed.

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

7. Undisputedly, the petitioner was appointed on the contractual basis and the last extension was given to him for a period of 2 years from 01.04.2022 to 31.03.2024, at this juncture, it would be appropriate to reproduce the Rule 8(4) of Bihar Special Survey Honorarium based Contractual Employment Rules, 2019, which provides the condition of employment of contractual employees:

***Rule 8. Condition of Employment-(4)
The Director, Land Records & Survey***



shall have the right to terminate the services of selected candidates after being satisfied on the basis of adverse report from the Collector-cum-Settlement Officer or any other evidences. He, shall following the principle of natural justice, provide an opportunity to be heard to any employee before removal. An appeal may be filed before Principal Secretary, Revenue and Land Reforms Department, Government of Bihar against the termination of employment order or Director.

8. Bare perusal of the Sub Rule 4 of Rule 8 of Bihar Special Survey Honorarium based Contractual Employment Rules, 2019, it is quite clear that under above Rule, the Director, Land Records and Survey is empowered to terminate the services of selected candidates after being satisfied on the basis of adverse report from the Collector-cum-Settlement Officer or any other evidences. It further provides that he shall follow the principle of natural justice, provide an opportunity to be heard to any employee before his removal. Perusal of the show cause i.e. Anneuxure-4 further shows that on the basis of report (information received through the Settlement Officer, Begusarai), it was found that the petitioner was obstructing the work of Special Survey. It was further alleged that in spite of the direction given by the Settlement Officer, the petitioner did not



join on his work and also did not participate in the meeting convinced by the Settlement Officer. Perusal of the reply submitted by the petitioner i.e. Annexure-P/5 further shows that in his reply, he has been categorically mentioned the fact that since the report of Settlement Officer, Begusarai on the basis of which show cause has been issued has not been provided to him, therefore, he is unable to file his proper reply. In spite of that, on the same day i.e. on 19.01.2023, order impugned, Annexure-7, has been passed. The order impugned, Annexure-7, further shows that while passing such order, a new ground has been taken by the concerned respondent that petitioner is unauthorized absent in the office and he has also provoked the other employees of the office. Such allegation, which is made in the order impugned, Annexure-7, was not part of show cause notice issued to the petitioner. Perusal of the appellate order passed by the appellate authority, i.e. Annexure-9, further shows that the appellate authority while rejecting the appeal on the basis of confidential paper arrived at the conclusion that petitioner is disobeying the orders of seniors and provoking the other employees of the office.

9. In the writ petition, it has been categorically pleaded by the petitioner that apart from the petitioner, more



than 500 other contractual employees were issued identical show cause on 18.01.2023 and all of them have filed their reply identical on 19.01.2023, but only against the petitioner impugned order, Annexure-7, has been passed. On this point, the respondents in their counter affidavit are totally silent. Thus, it is also clear that on the same allegation more than 500 employees were issued even identical show cause notice and all of them replied identical but only services of the petitioner has been terminated which shows the arbitrariness of the respondents.

10. This Court in the case of ***Anuj Shuckla Vrs. The Bihar Industrial Area Development Authority (BIADA) & Ors.*** (supra) on the basis of the observation made by the Hon'ble Supreme Court in the case of ***Dr. Vijaykumaran CPV -Versus- Central University of Kerala & Others (2020) 12 SCC 426*** and ***Roop Singh Negi -Versus- Punjab National Bank and Others (2009) 2 SCC 570*** arrived at the conclusion that when a stigmatic order of termination was passed against the contractual employees, it requires the full fledged departmental enquiry where the show cause and defence taken by the employees should be considered and an appropriate opportunity of hearing should be extended to him and held in paragraph nos. 9, 10 and 11 as follows :



“Para-9. In the light of above observation made by the Supreme Court, on examination of the facts of this case in hand, it is clear that a stigmatic order of termination has been passed against the petitioner and, therefore a full fledged departmental enquiry was required”.

Para-10 “Perusal of the order further shows that reply of show cause submitted by the petitioner has not been considered by the Authority at all. In his reply to the show cause, the petitioner replied each and every allegations levelled against him but the Authority did not bother to mention any of the grounds taken by him in his reply. It would be appropriate to reproduce the concluding part of the impugned order here which reads thus:

“उपर्युक्त गठित आरोपों पर पत्रांक 5991 दिनांक 16.09.23 द्वारा श्री शुक्ला से स्पष्टीकरण की मांग करते हुए अपना पक्ष रखने का अवसर प्रदान किया गया। श्री शुक्ला द्वारा स्पष्टीकरण दिनांक 22.09.23 प्रस्तुत किया गया परंतु श्री शुक्ला द्वारा समर्पित स्पष्टीकरण प्राधिकार द्वारा असंतोषजनक पाया गया। श्री शुक्ला अपने विरूद्ध गठित आरोपों को खण्डित करने में विफल हुए हैं। अतः अभिलेखित साक्ष्यों के आधार पर श्री शुक्ला के विरूद्ध गठित आरोप सही सिद्ध होते हैं।”



Para-11 “Considering the submissions of learned counsel for the parties and the material available on record, as discussed above, I find that as the impugned order has been passed by the Authority is a stigmatic order, therefore, as observed by the Supreme Court in the case of Dr. Vijaykumaran CPV (supra), a full fledged departmental enquiry was required but in this case, it was not done. Further, the petitioner has not been provided any proper opportunity of hearing in this case. The Authority, without recording statement of any witness and without considering the reply of show cause submitted by the petitioner, arrived on the conclusion that the charges levelled against him are proved. The Appellate Authority also did not consider this aspect. Hence, both the orders dated 20.10.2023 passed by the Executive Director (Annexure P/13) and the order dated 04.09.2024 passed by the Chairman which has been communicated to the petitioner vide Annexure P/16 are liable to be quashed”.

11. Perusal of the impugned orders, Anneuxre-7 and the order passed by the Appellate Authority, Annexure-9, show that reply submitted by the petitioner against the show cause has not been considered by both the authorities and services of the petitioner has been dismissed making allegations against him. Since both the orders are the stigmatic orders in the light of



observation made by this Court in the case of *Anuj Shuckla* *Vrs. The BIADA & Ors (supra)* and for the other reasons as discussed hereinabove, both the impugned orders, dated 19.01.2023 (Annexure-7) and 05.06.2023 (Annexure-9) are liable to be set aside.

12. Accordingly, the writ petition is allowed.

13. The impugned orders dated 19.01.2023 (Annexure-7) and 05.06.2023 (Annexure-9) are quashed.

14. The respondents are directed to reinstate the services of the petitioner forthwith and necessary order will be passed within two weeks from the date of receipt/production of a copy of this order. However, the respondents are at liberty to proceed further against the petitioner, if they so advised in accordance with relevant rules and law.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	25.02.2025
Uploading Date	22.04.2025
Transmission Date	NA

