

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1087 of 2024

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Chandra Shekhar Yadav Son of Late Ramdeo Yadav, Resident of Village-
Kamar Pokhar, Police Station- Baheri, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
3. The Commissioner, Darbhanga Division, Darbhanga.
4. The District Magistrate-cum-Collector, Madhubani.
5. The Sub-Divisional Officer, Jhanjhapur, Madhubani.
6. The Circle Officer, Madhepur, District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyam Shivam Sundaram, Adv.
For the Respondent/s : Mr. Standing Counsel (28)

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 18-06-2025

This petition has been preferred by the petitioner being aggrieved with the order dated 17.12.2022 i.e. Annexure – P/7 passed by the District Magistrate – cum- Collector, Madhubani, whereby and whereunder the petitioner has been dismissed from services and also under challenge is the order dated 12.01.2023 i.e. Annexure – P/8 passed by the appellate authority, whereby and whereunder the appeal preferred by the petitioner has also been rejected.

2. The brief facts of the case are that at the relevant time the petitioner was working as a Revenue Clerk in circle



office Madhepur, Madhubani. It is alleged that on 06.11.2021 the petitioner along with two other employees had consumed liquor in the office. Madhepur P.S. Case No. 178 of 2021 was registered against the petitioner, who was taken in custody on 06.11.2021 and subsequently granted bail. The charge-sheet was issued to the petitioner and enquiry officer was appointed. The enquiry officer in his report found all the charges levelled against the petitioner to be correct. On the basis of the enquiry report, the disciplinary authority vide impugned order dated 17.12.2022 dismissed the petitioner from services. The above order of dismissal has been challenged by the petitioner by way of Service Appeal No. 01 of 2023 before the appellate authority which has also been dismissed by the appellate authority vide its order dated 17.06.2023 i.e. Annexure – P/9. Hence, this writ petition.

3. Learned counsel for the petitioner submit that the enquiry report on the basis of which the order of dismissal has been passed is unsustainable as it is violating the principles of natural justice. He submits that though the charge memo has been issued to the petitioner but neither the list of witnesses were prepared nor any witnesses have been examined by the enquiry officer during the course of enquiry, even after that the



enquiry officer only on the basis of the breath analyzer test report arrived on the conclusion that at the time of the incident the petitioner was in intoxicated condition. He further submits that the enquiry officer only on the basis of seizure memo arrived on the conclusion that at the time of incident some liquor was found in possession of the petitioner. Since, no witnesses were examined in this regard and only on the basis of seizure memo the enquiry officer made his opinion, it is perverse. According to the counsel, it is the case of no evidence. He further submits that only on the basis of breath analyzer test report it cannot be said that at the relevant point of time the petitioner was in intoxicated condition. Reliance is also placed by the counsel on the judgment passed by this court in the case of *Manoj Kumar Pandey vs. The State of Bihar & Ors.* passed in *CWJC No. 10484 of 2023* dated 10.01.2025.

4. Counsel for the respondent-State do not opposes the prayer made by the counsel for the petitioner.

5. Heard both the counsels appearing for both the parties, perused the documents annexed with the petition as well as the counter affidavit and the rejoinder.

6. Perusal of the record shows that though the charge memo was issued to the petitioner but neither the list of



witnesses were prepared nor any witness has been examined by the enquiry officer during the course of the enquiry proceedings. The enquiry officer relied only upon the breath analyzer test report annexed with the charge memo. There is nothing on record which shows that who was the person who brought on record the breath analyzer report before the enquiry officer and there is also nothing on record that in what manner the breath analyzer report has been proved by the presenting officer during the course of enquiry. In the case of *Manoj Kumar Pandey (supra)*, this court has already held that the report of the breath analyzer test is not a conclusive proof of consumption of liquor.

7. With regard to the other charge is concerned, perusal of the enquiry report further shows that the enquiry officer only on the basis of the seizure memo arrived on the conclusion that at the relevant time the petitioner was in possession of some liquor in the office but, for establishing this fact none of the witnesses have been examined by the department before the enquiry officer. There is also nothing on record which shows that who was the person who tendered the said seizure memo before the enquiry officer.

8. Taking into consideration the above this Court finds that the finding recorded by the enquiry officer is not



sustainable in the eyes of law. While passing the order of dismissal the disciplinary authority as well as while deciding the appeal the appellate authority did not consider these aspects.

9. Therefore, the order of dismissal passed by the District Magistrate-Cum-Collector, Madhubani vide its memo no. 2074 dated 17.12.2022 and the order dated 17.06.2023 passed by the Commissioner in appeal being service appeal no. 01 of 2023 are hereby quashed .

10. The writ petition is allowed.

11. The respondent-State is directed to reinstate the services of the petitioner forthwith with all consequential benefits accrued to him. The necessary order be passed within 45 days from the date of receipt/production of a copy of this Order.

(Arvind Singh Chandel , J)

Siddharth Soni/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

