

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2927 of 2023

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Anuj Kumar son of Wakil Kumar, resident of Village- Haripur Budhwa, P.S.
Alauli, District- Khagaria. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Social Welfare Department, Patna.
 2. The Director, I.C.D.S., Patna.
 3. The Divisional Commissioner, Munger Division, Munger.
 4. The District Magistrate, Khagaria.
 5. That District Programme Officer, Khagaria.
 6. The Child Development Project Officer, Gogri, Khagaria.
 7. Ful Kumari, Anganwari Sevika, Ward No. 4, Pasraha, Gogri, Khagaria.
- Respondent/s
- =====

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
	:	Mr. Ram Sumiran Rai, Advocate
For the State	:	Mr. S.K. Mandal, SC-3
	:	Mr. Arjun Mandal, AC to SC-3

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 11-02-2026

Heard the parties.

2. The present writ petition has been filed for the
following reliefs:-

“i. For issuance of an appropriate writ/s, order/s, Direction/s in the nature of certiorari for quashing order dated 13.12.2022 passed by the Divisional Commissioner, Respondent no. 3 in Service Appeal No. 53/2020-21 whereby and under he was pleased to reject the appeal filed by the petitioner against the order dated 16.09.2021 passed by the District Magistrate, Khagaria whereby and under the



petitioner has been dismissed from service while working as Executive Assistant, CDPO Office, Gogri.

- ii. *For issuance of an appropriate writ/s, order/s, Direction/s in the nature of certiorari for quashing impugned order contained in Memo No. 632 dated 16.09.2021 whereby and under the District Magistrate, Khagaria has been pleased to dismissed the petitioner from service as Executive Assistant, in CDPO Office, Gogri on the charges leveled against him in the charge memo finding that there is deviation of Government Fund made by the petitioner under CFMA System.*
- iii. *For issuance of an appropriate writ/s, order/s, Direction/s to the respondents to reinstate the petitioner from the date when he has been dismissed from service while working as Executive Assistant, CDPO Office, Gogri, Khagaria.”*

3. At the outset, the learned counsel for the petitioner submits that while the petitioner was working as Executive Assistant in the office of the CDPO, Gogri, a complaint was made against the petitioner for making payment of Rs. 40,000/-, in excess to the entitlement to one Amit Kumar,



Block Co-ordinator. The charge memo was handed over to the petitioner vide letter no. 484 dated 03.09.2021 issued under the signature of the CDPO, Gogri wherein the petitioner was asked to submit his reply that under what circumstances he has made payment of Rs. 40,000/- to Amit Kumar, Block Co-ordinator which amounts to embezzlement of fund. The petitioner submitted his reply on 06.09.2021 wherein he gave details and explained the reasons under which the said payments were made. By the impugned order contained in Memo No. 632-3/25/21-ICDS dated 16.09.2021 issued under the signature of the District Magistrate, Khagaria, the petitioner has been relieved from the services and his employment was terminated.

4. It has been submitted by the learned counsel for the petitioner that although the petitioner was issued Charge Memo dated 03.09.2021 for another charge but the disciplinary authority while terminating the petitioner proceeded to consider three additional charges and finally on the basis of said charges, for which no opportunity to submit show cause was ever issued to the petitioner, the impugned order has been passed.

5. The Learned counsel for the petitioner further submits that in his pleading in the writ petition in paragraph no. 7, he has specifically mentioned that the charges which have



been levelled against the petitioner i.e. three new charges in the order impugned passed by the Collector, which he found to be sufficient for awarding punishment was never served upon him and as such he was unaware of the three charges mentioned in the impugned order dated 16.09.2021.

6. The learned counsel for the petitioner further submits that even though no opportunity was given to the petitioner to file his reply to the three additional charges which the District Magistrate has mentioned in the order impugned, the said Fool Kumari who had alleged that Rs. 55,000/- was asked for by the petitioner in lieu of payment of her remuneration is incorrect since along with her complaint, she had filed an affidavit wherein she has stated that the said amount was being asked for by the petitioner for her appointment. With regard to the viral video in question, the petitioner submits that with regard to the said viral video, an enquiry was conducted by the District Programme Officer, Khagaria and vide letter no. 36 dated 16.01.2020, he found the same to be fake video.

7. The learned counsel for the petitioner further submits that being aggrieved with the order of punishment dated 16.09.2021, the petitioner preferred appeal before the appellate authority i.e. the Divisional Commissioner, Munger wherein he



gave his explanation to all the three additional charges mentioned in the impugned order dated 16.09.2021 passed by the District Magistrate, Khagaria, but the appellate authority by his order dated 13.12.2021 passed in Service Appeal No. 53 of 2021 proceeded to reject the appeal filed by the petitioner.

8. The learned counsel for the petitioner further submits that even before issuance of the show cause notice dated 03.09.2021 for excess payment of Rs. 40,000/- to Amit Kumar, the C.D.P.O., Gogri vide letter no. 483 dated 03.09.2021 directed the said Amit Kumar, Block Co-ordinator to deposit the said amount in the Government account of the C.D.P.O., Gogri. He further submits that before issuance of the said letter to Amit Kumar and the memo of charge to the petitioner on 03.09.2021, the said amount to the tune of Rs. 40,000/- was already deposited by Amit Kumar through treasury challan, therefore there is no embezzlement of the fund by the petitioner.

9. Per contra, the learned counsel for the State submits that the petitioner's act of taking bribe to the tune of Rs. 2,500/- was caught on video and a written complaint had been received from an Aanganwadi worker regarding petitioner's act of demanding illegal gratification amounting to Rs. 55,000/- for release of her salary and these incriminating materials, *ipso*



facto, speaks volume about the petitioner's gross misconduct warranting punishment for the same.

10. The learned counsel for the State further submits that the order passed by the Divisional Commissioner is a reasoned order and the same has been passed after taking into consideration the contentions put forward by the petitioner as well as the report of the District Magistrate, Khagaria. It is well established that after perusal of the evidence that the petitioner was a Maker in CFMS system and it is also an admitted fact that the petitioner indulged in deliberate and mala fide financial irregularities. The petitioner had also concealed the role of Maker before the Divisional Commissioner, which shows that he has not come with clean hands.

11. The learned counsel for the State further submits that in reply to paragraph no.7 of the writ petition, he has specifically denied the same and it has been stated that the three other allegations outlined in the order passed by the District Magistrate relates to past instances, as preface to dealing with original charge of deviation of Government fund to the tune of Rs. 40,000/-, of misconduct on the part of the petitioner and these did not constitute new charges based upon which the impugned order was passed by the District



Magistrate, Khagaria. In other words, the impugned order has been passed by the District Magistrate, Khagaria after considering the charge no. 7(i) only and charge no. 7(ii), (iii) and (iv) of paragraph no.7 to the writ petition does not become *causa causans* but remains chiefly a prologue of the said impugned order.

12. The learned counsel for the petitioner in his reply submits that no documentary evidence has been produced and proved, so far the video which is considered as evidence is concerned and so far the statement made in paragraph no.7 of the counter affidavit under reply is concerned, those have not been denied by the State in the emphatic way and by a corollary it would be deemed that the State Authorities have accepted the contention of the petitioner.

13. The learned counsel for the petitioner further submits that although action has been taken against the petitioner based on three new charges and it has been stated that the petitioner was Maker in the CFMS system, but no action has been taken against the checker and approver. It has further been submitted that the oral request made by the said Amit Kumar, the petitioner processed the file and sent the same for approval of the C.D.P.O., Gogri and upon her approval, the said payment



of Rs. 40,000/- was made, therefore it cannot be said that the petitioner was instrumental in making payment, rather the same was paid to Amit Kumar after approval of the competent authority.

14. Having heard the learned counsel for the parties and after going through the records, I find that the petitioner was asked to submit his reply with regard to only one charge i.e. payment of Rs. 40,000/- to one Amit Kumar, Block Co-ordinator, in excess to his entitlement and for which he submitted his show cause reply, but the disciplinary authority by the order impugned contained in Memo No. 632-3/25/21-ICDS dated 16.09.2021 proceeded to award punishment to the petitioner on three additional charges, for which no opportunity to file show cause was given to the petitioner at any time. The respondent-State has not brought on record any document to suggest that before passing the final order on three additional charges, the petitioner was given an opportunity to file his show cause reply to rebut the same. The District Magistrate, Khagaria proceeded to pass the impugned order on the three new charges which was not within the knowledge of the petitioner and the appellate authority without considering the averments made by the petitioner in the memo of appeal, proceeded to reject the



Service Appeal No. 53 of 2021 filed by the petitioner, by the impugned order dated 13.12.2022.

15. Accordingly, the order impugned contained in Memo No. 632-3/25/21-ICDS dated 16.09.2021 passed by the District Magistrate, Khagaria and order dated 13.12.2022 passed by the Divisional Commissioner, Munger Division, Munger in Service Appeal No. 53 of 2021 deserve to be set aside and are accordingly set aside.

16. The matter is remitted back to the disciplinary authority i.e the District Magistrate, Khagaria to proceed afresh from the stage of giving show cause notice to the petitioner for the charges mentioned in the impugned order dated 16.09.2021 and proceed afresh in accordance with law, if so desires.

17. Accordingly, the writ petition is allowed in the aforementioned terms.

18. Pending Interlocutory Application(s), if any, stands disposed of.

(Ritesh Kumar, J)

AjayMishra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.02.2026
Transmission Date	NA

