

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6465 of 2022

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Vijendra Paswan Son of Late Lalji Paswan, resident of Village- Rupaspur,
Police Station- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Information and Public Relation Department, Government of Bihar, Patna.
2. The Principal Secretary-cum- Appellate Authority, Information and Public Relation Department, Government of Bihar, Patna.
3. The Director-cum- Disciplinary Authority, Information and Public Relation Department, Government of Bihar, Patna.
4. The Deputy Secretary-cum- Inquiry Officer, Information and Public Relation Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Shekhar, Advocate
For the State	:	Mr. S.K. Mandal (SC-3)
		Mr. Bipin Kumar (AC to SC-3)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 29-01-2026

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for the
following relief/s:-

*“I. For issuance of writ in the nature
of certiorari for quashing of the
Enquiry Report dated 13.12.2018
(Annexure-4); for quashing of the
order dated 13.03.2019 contained in
Memo No. 480 (Annexure-6) passed*



by the Disciplinary Authority, whereby the punishment of compulsory retirement has been imposed upon the petitioner, including the supplementary order dated 15.03.2019 contained in Memo No. 513 (Annexure-7); for quashing of the appellate order dated 07.10.2021 contained in Memo No. 979 (Annexure-9), whereby the appeal of the petitioner was rejected and order of the Disciplinary Authority has been upheld.

II. Upon quashing of the aforesaid memos, issuance of direction to the respondents to reinstate the petitioner with all admissible benefits.

III. For any other relief or reliefs to which the petitioner is entitled in the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that the petitioner was working on the post of Peon in the office of Information and Public Relation Department, Government of Bihar, Patna at the relevant period of time. He submits that *vide* order dated 09.07.2018 and further *vide* office order dated 10.09.2018, *Prapatra-Ka* has been issued to the petitioner with the specific charges that he has helped his superior namely, Mr.



Kanhaiya Kumar for earning illegal money, due to which a departmental proceeding was initiated by appointing Conducting Officer & Presenting Officer to enquire into the matter. Counsel submits that the petitioner has submitted his defence/written statement on 24.07.2018 as well as he has also submitted his explanation on 01.11.2018 before the concerned authorities. But, the Enquiry Officer has found the charges proved against him. Counsel submits that upon receiving the enquiry report, the petitioner was asked second show cause on 30.01.2019 and he has submitted his reply on 14.02.2019. But, the Disciplinary Authority *vide* order dated 13.03.2019 contained in Memo No. 480 imposed the punishment of compulsory retirement and subsequently, the supplementary order has been passed *vide* order dated 15.03.2019 contained in Memo No. 513, whereby, it was ordered that no payment shall be made to the petitioner during the period of suspension except for subsistence allowance. Counsel further submits that the petitioner has challenged the order of the Disciplinary Authority before the Appellate Authority, but the Appellate Authority has also rejected the appeal of the petitioner *vide* order dated 07.10.2021 contained in Memo No. 979. Thereafter, the petitioner moved before this Hon'ble Court by filing the present



writ petition.

4. Learned counsel for the petitioner further submits that a unique methodology of punishment has been adopted by the Disciplinary Authority. He submits that there is a gross violation of Rule 17 & 18 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'Bihar CCA Rules, 2005'). He submits that not a single witness has been examined nor any opportunity of examination or cross examination of any witness from any side has been provided and the petitioner has been punished. Counsel further submits that, at the time of passing the final order, the petitioner took the plea that it was his superior who had actually committed the wrong. However, while the allegation against the petitioner was that he had assisted/provided help to his superior, the said superior has been exonerated in the departmental proceeding. The petitioner has been made a scapegoat in the present case and he has unnecessarily been punished. Counsel submits that it is a case where violation of rules under Bihar CCA Rules, 2005 have been made as well as exorbitant punishment has been imposed upon the petitioner. Therefore, he seeks indulgence of this Hon'ble Court to interfere in this matter upon a poor Class-IV



employee who has basically obeyed his superior under threat and coercion and this aspect has not been taken into consideration at any level of time, either before the Enquiry Officer or before the Disciplinary Authority or before the Appellate Authority. Counsel, therefore, submits that this writ petition is fit to be allowed.

5. Learned counsel for the State, on the other hand, vehemently opposes the prayer and the pleadings made in the writ petition and submits that after issuance of *Prapatra-Ka*, it is very clear by the reply of the petitioner that he has accepted his wrong which has been alleged under memo of charge. He submits that the petitioner has also accepted his guilt before the Enquiry Officer. He submits that in such type of cases, no opportunity of cross examination or any evidence is required when the findings of the Enquiry Officer is basically by virtue of admission. As, whatever be the allegation alleged against the present petitioner, has been accepted *in toto*, rather, he has explained the entire situation and the *modus operandi* as to how he has committed the wrong. Counsel, therefore, submits that the findings of the Enquiry Officer is absolutely in accordance with law and there is no violation of rules under Bihar CCA Rules, 2005. He further submits that the defence taken by the



petitioner before the lower authorities that his superior, who was alleged to have committed the wrong has not been punished is not correct. This defence is not correct, rather, he has also been punished. Counsel, therefore, submits that the order passed by the authorities which are impugned here are absolutely in accordance with law and there is no need of any interference in this matter.

6. Upon a specific query by the Court to the counsel for the State, as to whether he has verified with the department about the punishment imposed upon the petitioner's superior, he submits that the department has intimated that the said person (superior of petitioner) has been punished by lowering his post, however, the punishment of compulsory retirement was not imposed upon him.

7. Upon perusal of the record, documents and the arguments, it transpires to this Court that at the time of passing the order by the Enquiry Officer, there is no wrong, particularly when, in the written statement, admission has come on behalf of the petitioner and subsequently, before the Enquiry Officer also again, admission has come. Therefore, in the opinion of this Court, there is no need of any cross examination. But the another aspect which is on record has not been considered at all



by any of the authorities, that this petitioner is the witness of the event. The petitioner has narrated his statement under section 167 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974) before the court and basically he is one of the probable witness against the said person in the criminal court. The another aspect which is most fatal that the petitioner has worked in coercion and pressure of his superior, though, he has committed wrong no doubt at all. Therefore, on the point of holding guilty, this Court is not expressing any opinion. But, only on the point of exorbitant punishment, this Court is very much surprised that the person who has committed wrong has not been removed from the service, rather, the petitioner who has alleged to work under coercion and pressure has been removed from the service by virtue of compulsory retirement. Such type of punishment is absolutely exorbitant and must not be sustainable in the eye of law.

8. In this view of the matter, the order of the Disciplinary Authority dated 13.03.2019 contained in Memo No. 480 (Annexure-6), the supplementary order dated 15.03.2019 contained in Memo No. 513 (Annexure-7) and the order of the Appellate Authority dated 07.10.2021 contained in Memo No. 979 (Annexure-9), all are hereby set aside.



9. The matter is remanded back to the Disciplinary Authority to pass order afresh considering this aspect that the person namely, Kanhaiya Kumar has not been removed from the service, but the petitioner has been removed from the service by virtue of compulsory retirement. The Disciplinary Authority shall pass order afresh within 60 days from the date of production of a copy of this order. Whatever be the entitlement of the petitioner with regard to his salary, retirement benefits etc., the Disciplinary Authority shall grant him within the said period.

10. Accordingly, with the aforesaid direction, this writ petition is hereby allowed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	31/01/2026
Transmission Date	NA

