

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9906 of 2024

Purushottam Kumar Jha son of late Kishori Nath Jha, resident of Dharampur (Ujan), P.O- Lohna Road, P.S- Sakatpur, Distt.- Darbhanga, Bihar. (Correspondence Address) Purushottam Kumar Jha, 5B/24, Indrapuri, P.O- Keshri Nagar, P.S- Patliputra, Patna- 800024 is basically field clerk but is conditionally deputed as a law officer in the Co-operative department, Govt. of Bihar, New Secretariat, Patna as well as is posted as a clerk in the office of the District Audit Officer, Co-operative Societies, Tazpur Road, Samastipur (Bihar)

... .. Petitioner

Versus

1. State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna- 800015.
2. Principal Secretary, Department of Cooperative, Govt. of Bihar, New Secretariat, Patna- 800015.
3. Registrar, Co-operative Societies, Bihar, New Secretariat, Patna- 800015.
4. District Audit Officer, Co-operative Societies, Samastipur, Tazpur Road, (Near LIC office), Samastipur (Bihar)- 848101.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Jha (In Person)
For the Respondent/s : Mr. Government Pleader (27)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 21-01-2026

Heard Mr. Purushottam Kumar Jha, petitioner-in-person, through virtual mode and learned Government Pleader No.27 for the State-respondents.

2. The present writ petition has been filed by the petitioner for quashing the order of suspension dated 16.12.2022 vide order No.10139 (Annexure-13) passed under Rule 9(1) the Bihar Government Servants (Classification,



Control & Appeal) Rules, 2005 (hereinafter referred to as the 'CCA Rules, 2005') and further directing respondent No.2, Principal Secretary, Department of Cooperative, Government of Bihar, Patna, to pay the salaries with all back dues, GPF with interest to the petitioner.

3. The petitioner submits that he was appointed by the Divisional Joint Registrar, Co-operative Societies, Darbhanga, against the vacant post of clerk in the un-revised pay scale of 1200-1800. The petitioner joined in the office of Assistant Registrar, Co-operative Society, Benipatti, Madhubani, on 10.06.1996 and, thereafter, vide Memo No. 11330 dated 30.12.1996 he was deputed in the Office of Registrar, Cooperative Society, Bihar, Patna. The work assigned to him was monitoring of legal work. In the year 1997, vide another order No.2923 dated 04.04.1997, he was posted at the Head Quarter and was taking salary of clerk from the one sanctioned post of accountant for legal work. The petitioner further submits that an Identity Card was issued by the Home (Special) Department, Government of Bihar, Patna, on the recommendation of the authority concerned of the department on 22.09.1997 for the post of Legal Assistant. He submits that with full dedication he was doing the work of Co-operative



Society then an order contained in Memo No.10139 dated 16.12.2022 (Annexure-13) was issued by Registrar Cooperative Society, Bihar, by which he has been suspended under Rule 9(1) of the CCA Rules, 2005. He submits that Rule 9(7) of the CCA Rules, 2005 is very much clear, under which there is specific provision that when order of suspension has been made thereafter charge must be framed within three months from the date of issue of suspension order, failing which on expiry of three months, the suspension order shall be revoked unless the authority, which issued the suspension order, passes the order renewing the suspension along with reasons to be recorded in writing for the delay in framing of the charge sheet for a further period of four months. He further submits that there is a proviso also in the said sub-rule that after expiry of the extended period of four months, the suspension order shall stand revoked if the charge is not framed. The petitioner submits that since charge has not been framed for the said period specified in the CCA Rules, 2005. Therefore, he filed the writ petition before this Hon'ble Court explaining all the circumstances, but legally demanded the relief that his suspension be revoked and payment to the petitioner be started. With this relief, he has moved before this Hon'ble Court in the writ petition.



4. Learned Counsel for the State-respondents submits that the pleading made by the petitioner is absolutely false and not correct. He submits that after suspension charge memo has already been issued/framed against the petitioner but the petitioner either in this way or that way creating hurdle in service of the charge and started delaying the departmental proceeding and subsequently on the basis of false pleading want to take shelter of law.

5. In support of his argument, he submits that a supplementary counter affidavit has been filed and in the said supplementary counter affidavit, filed by respondent Nos.2 to 6 dated 16.05.2025, in which Annexure-D has been annexed showing that this is the charge memo issued to the petitioner on 11.11.2022. He submits that the said charge memo is well within time from the date of issuance of the suspension and, therefore, the petitioner has no case at all. He submits that the petitioner be directed to support in the departmental proceeding and this departmental proceeding may be directed to be concluded within a specified period of time. He also submits that due to non-response of the receiving of the charge memo, the said charge memo was sent to the home address of the petitioner through registered post, which was returned



undelivered with the postal peon report that addressee has left without information. He further submits that the department is very cautious with regard to follow the law and in furtherance thereof, paper publication has also been made in Daily Newspaper Hindustan dated 23.08.2023 intimating the petitioner to submit his reply within 15 days, failing which necessary action shall be taken against him. Learned Counsel further submits that the Joint Registrar, Cooperative Society, Magadh Division, Gaya, vide his letter dated 27.01.2025 has reported that the petitioner has joined the Headquarter so fixed during his suspension on 22.01.2025 and has further sought for guidance as to from which date the subsistence allowance has to be paid to the petitioner. He further submits that it has been decided at the level of the authorities of the respondent that subsistence allowance shall be payable to the petitioner in terms of proviso of Rule 10(1) of the CCA Rules, 2005. Conclusively, he submits that in any view of the matter, the writ petition is fit to be dismissed as there is no legal infirmity in the decisions taken by the respondent and it is due to the personal conduct of the petitioner, the departmental proceeding could not be proceeded and in this view of the matter the writ petition be dismissed.



6. After hearing the parties, it is the admitted position that the petitioner is the employee and the respondent is the employer. The service rule applicable to the petitioner is CCA Rules, 2005. According to which, it is well within the power of the employer to suspend him and he has rightly been suspended under Rule 9(1) of the CCA Rules, 2005, since both employer and employee are guided by CCA Rules, 2005. Therefore, the employer is also bound to follow the rule laid down under Rule 9(7) of the Bihar CCA Rules, 2005. This Court with a view decide this writ petition accepts that charge memo has been issued which has been attached as Annexure-D of the supplementary affidavit dated 16.05.2023 filed by respondent Nos.2 to 6. This Court is aware about the special regulation framed in the year 2017, published in the Bihar Gazette Extraordinary No.1189 dated 19th of December, 2017 under which the Bihar Government Servant has to serve charge in accordance with the special regulation, namely, Bihar Framing of Article of Charge against Government Servant Regulation 2017. Since, this charge memo has been issued in the year 2022, therefore, this regulation 2017 become applicable on the same. According to this regulation, every memo of article of charge shall contain four parts. The first part is



personal information regarding the concerned government servant, the second part is the substance of imputation of misbehave or misconduct and the third part is Clarification (*Abhikathan*) of misbehave or misconduct and fourth part is in two further sub-part (a) list of document by which it is proposed to prove the allegations and another sub-part (b) list of witnesses.

7. Upon perusal of Annexure-D, which is alleged to be the memo of charge against the petitioner, this Court finds that there is only part-I and Part-III are there. Part-II and Part-IV are completely inabsentia. It is due to this reason, this Court is of the firm view that the alleged Annexure-D, i.e., Memo of Charge, is absolutely defective and on the defective charge memo proceeding cannot be proceeded as well as Rule 9(7) of the CCA Rules, 2005 is very categorical under which time period has been prescribed and, therefore, it is due to this reason that Annexure-D is basically no charge. This Court hereby treats that no charge memo has been issued. In result, Suspension Order No.10139 dated 16.12.2022 (Annexure-13) is hereby set aside. Respondent No.2, the Principal Secretary, Department of Cooperative, Government of Bihar, Patna, is directed to make payment of all his arrears to the petitioner



within three months from the date receipt/production of a copy
of this order.

8. With the aforesaid direction, this writ petition
is allowed.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.01.2026
Transmission Date	

