

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 18137 of 2023

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Arun Kumar Yadav Son of Late Narayan Yadav, Presently Posted as Panchayat Secretary of Gram Panchayat - Gawalpara, Block - Chhatapur District - Sapaul. Permanent resident of Village - Litiyahi P.S. Pipra, District - Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Revenue and Land Reforms Department, Bihar Patna.
3. The Divisional Commissioner, Saharsa.
4. District Magistrate, Supaul.
5. The Sub-Divisional Officer cum Enquiry Officer, Triveniganj, District - Supaul.
6. The Block Development Officer, Marauna District - Supaul.
7. The Block Development Officer Chhatapur, Distt. - Supaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Naresh Kumar Mehta, Advocate
For the Respondent/s	:	Ms Archana Meenakshee, GP VI with M/s Rana Veer Prawar, Harish Singh, Advocates

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CORAM: HONOURABLE MR JUSTICE RITESH KUMAR

ORAL JUDGMENT

Date : 06-02-2026

Heard the parties.

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

“... .. for issuance of writ of certiorari and mandamus or any other appropriate writ (s)/order (s)/direction (s) commanding the respondent authorities to set aside the order dated 26.08.2022 passed by the Commissioner, Koshi Division, Saharsa in Service Appeal Case No 97 of 2015 in the light of order



dated 27.02.2015 passed in CWJC No 3185/2015 by this Hon'ble Court as well as order dated 28.06.2010 contained in Memo No 268-2 by the DM, Supaul whereby and where under two increments were withheld on the basis of departmental enquiry report dated 12.03.2010 conducted by the SDO, Triveniganj -cum-enquiry officer without issuance of show cause notice which is mandatory in the eye of law ignoring the facts and circumstances of this case and further prayer is to provide all subsequent consequential benefits including the period in question of two years may be taken into account in the ACP benefit and to grant any other relief/reliefs to the petitioner which the petitioner may be found entitled to get in the eye of law."

3 The learned counsel for the petitioner submits that the petitioner was appointed as Panchayat Secretary on 25.07.2000 and since then he was working as the same. While posted at Raghapur Block, the petitioner was transferred on 30.06.2009 from Raghapur to Marauna Block but was relieved on 04.07.2009 and on the next day, he gave his joining at Marauna. Subsequently, vide Memo No 414-2 dated 17.07.2009 issued under the signature of the Block Development Officer, Marauna, he, along with others, was deputed to hand over charge w.e.f. 18.07.2009 to 23.07.2009. It has further been contended that though the petitioner was present to hand over the charges to his successor but till 08.08.2009, neither his successor took charge nor the Block Development Officer, Raghapur relieved him and since



his successor was not taking over charge from him, vide Memo No 1233-2 dated 06.08.2009 issued under the signature of Block Development Officer, Raghapur, an order was issued to Shri Shyam Sundar Yadav, who was posted as Panchayat Secretary at Parmanandpur, to take over charge from the petitioner. It is further contended on behalf of the petitioner that vide Letter No 1276 dated 12.08.2009 issued under the signature of Block Development Officer, Raghapur addressed to the District Magistrate, Supaul, it was intimated that the petitioner was relieved from Marauna Block and was directed to report at Raghapur where he gave his joining on 18.07.2009 but he is absent thereafter and is not responding to the telephonic calls also, in those circumstances, appropriate action be taken against him. Accordingly, vide Memo No 320-2 dated 31.08.2009 issued under the signature of the District Magistrate, Supaul, the petitioner was put under suspension and during the period of suspension, his headquarter was fixed at Block office, Triveniganj and it was further directed that he will be paid subsistence allowance in accordance with law. A Memo of Charge (*Prapatra Ka*) was issued to the petitioner wherein certain charges were levelled against him and vide Memo No 22-2 dated 07.01.2010, the Enquiry Officer and Presenting Officer were appointed to conduct



the departmental proceeding initiated against the petitioner. Show cause notices were issued to the petitioner and he gave his reply to the same on 09.02.2010. The Enquiry Officer, after conducting enquiry, submitted his report on 12.03.2010 whereby he found the charges levelled against the petitioner to be partially proved. It has further been contended on behalf of the petitioner that without providing a copy of the enquiry report or the opportunity to file second show cause reply, the District Magistrate, Supaul vide the impugned order contained in Memo No 268-2 dated 28.06.2010 proceeded to award Major punishment of stoppage of two increment with non-cumulative effect and transferred the petitioner from Block Office, Marauna to Block Office, Triveniganj and his suspension was also revoked. The petitioner preferred statutory appeal before the Commissioner, Koshi Division, Saharsa wherein he alleged that no second show cause notice was issued to him and even the copy of the enquiry report has not been provided to the petitioner which causes great prejudice to him. The Commissioner, Koshi Division, Saharsa by his order dated 26.08.2022, dismissed the appeal filed by the petitioner.

4 Per contra, the learned counsel for the State submits that the petitioner deliberately disobeyed the order dated 17.07.2009 issued by the Block Development Officer, Marauna



and remained absent till 18.07.2009, therefore, the Block Development Officer, Raghapur, vide his Letter No 1276 dated 12.08.2009, recommended to the District Magistrate, Supaul to take disciplinary action against the petitioner. Accordingly, the District Magistrate, Supaul put the petitioner under suspension and, after enquiry, proceeded to pass the order of punishment, which was challenged by the petitioner before the Divisional Commissioner, Koshi Division, Saharsa by filing Service Appeal Case No 97 of 2015, upon which the Commissioner, Koshi Division, after hearing the parties, vide his reasoned and speaking order dated 26.08.2022, dismissed the appeal preferred by the petitioner.

5 From the arguments advanced on behalf of the parties and after going through the documents made available on record, I find that there is no denial in the counter affidavit filed on behalf of the respondent-State that the copy of the enquiry report was handed over to the petitioner. In my considered opinion, none submission of copy of the enquiry report to the petitioner has been fatal to his case and therefore, the order impugned passed by the Disciplinary Authority contained in Memo No 268-2 dated 28.06.2010 and the appellate order dated 26.08.2022 passed in



Service Appeal Case No 97 of 2015 deserve to be set aside and are, accordingly, set aside.

6 The matter is remitted to the Disciplinary Authority to proceed afresh from the stage of handing over the copy of enquiry report to the petitioner and to proceed afresh in accordance with law.

7 With the above mentioned observations and directions, the present writ petition is disposed of.

(Ritesh Kumar, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.02.2026
Transmission Date	NA

