

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9274 of 2017

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Satyendra Kumar Pathak Son of Late Sachchidanand pathak, Resident of Village-Karpi, Police Station-Karpi, District-Arwal, Presently Posted as In-charge Head Master, Middle School, Kochahasa, District-Arwal.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Primary Education Bihar, Patna.
4. The Regional Deputy Director of Education, Magadh Division, Bihar, Patna.
5. The District Education Officer, Arwal.
6. The District Programme Officer, Establishment, Arwal.
7. The Block Education Officer, Block-Karpi, District-Arwal.
8. The Head Master-Cum Drawing and Disbursing Officer, Middle School, karpi, District-Arwal.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Binod Kumar
For the Respondent/s : Mr. Prabhakar Jha- Gp27

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER

C.A.V.

Date : 07-11-2025

1. The Present writ petition has been filed for quashing the order of punishment, dated 01.10.2016, contained in Memo No. 697 passed by the District Programme Officer, Arwal. It has further been prayed for a direction to the respondent/authorities for payment of salary and subsistence allowance for the entire period of suspension along with all consequential and monetary



benefits.

2. By way of I.A No. 1 of 2024, the petitioner sought amendment in the prayer portion of the writ petition, stating that during the pendency of the present petition, the respondent no. 4, namely the Regional Deputy Director of Education, Magadh Division, Gaya, Bihar, who is the appellate authority, has passed an order dated 16.01.2018, contained in Memo No. 67, whereby the order of punishment passed by the disciplinary authority has been upheld. The petitioner has also prayed for quashing of the aforesaid appellate order.

3. The brief facts giving rise to the present writ application is that the petitioner was initially appointed as an Assistant Teacher in the Matric Trained Scale on 01.11.1977, at Primary School, Kendua, Imamganj, District Gaya. In the year 1987, he was granted the first time-bound promotion and subsequently received '*Pravar Koti*' promotion in the year 1989. Thereafter, he was posted as the In-charge Headmaster of the Middle School, Kochahasa, Karpi Block, District -Arwal, and was due to retire on 30.06.2017.

4. While the petitioner was serving as In-charge Headmaster, the District Superintendent of Education,



Jehanabad, issued a letter bearing Memo No. 494, dated 17.02.2010, placing the petitioner under suspension on the basis of a report submitted by the Area Education Officer cum Incharge, Mid-Day Meal Scheme, Arwal on the allegation that he was absent without notice and irregularities were committed in the mid-day meal scheme. Pursuant to the aforesaid order of suspension, petitioner submitted his joining at headquarters on 19.02.2010.

5. The District Superintendent of Education, Jehanabad, by order dated 06.05.2010, framed memo of charge in *Prapatra* “Ka” and appointed Block Education Officer, Arwal, as Enquiry Officer and Block Education Officer, Karpi, as Presenting Officer to conduct the departmental inquiry.

6. Vide order, dated 10.03.2011, in Memo No. 87, District Superintendent of Education, Arwal, revoked the suspension of the petitioner and the petitioner was directed to be posted at Middle School, Kochahasa, Karpi, District-Arwal. In the said order, it was clarified that the Departmental Proceeding would continue. Pursuant thereto, the petitioner submitted his joining at Middle School, Kochahasa on 15.03.2011.

7. Thereafter, a memo of charge was again served upon



the petitioner vide order dated 04.06.2011 in *Prapatra "Ka"* by District Superintendent of Education, Arwal, and Block Education Officer, Kurtha, was appointed as the Enquiry Officer and Block Education Officer, Karpi was appointed as Presenting officer. At this stage, the Enquiry officer, submitted the inquiry report on 04.04.2016.

8. In view of the inquiry report dated 04.04.2016, the District Programme Officer (Establishment), Arwal, passed the order of punishment dated 01.10.2016 imposing punishment of withholding of three increments with cumulative effect alongwith warning regarding not to remain absent in the school in future without prior intimation and departmental permission. In the punishment order, it was also directed that apart from subsistence allowance during suspension period, nothing will be paid to the petitioner.

9. The petitioner filed an appeal before the Regional Deputy Director of Education, Magadh Division, Gaya, against the impugned order of punishment, dated 01.10.2016. The appellate authority disposed the appeal vide order, dated 16.01.2018, whereby the punishment order passed by the disciplinary authority has been upheld.



10. Learned counsel for the petitioner argued that the Enquiry Officer without issuing a show-cause notice or affording the petitioner an opportunity of hearing, proceeded to submit an inquiry report on 04.04.2016 before the District Superintendent of Education, Jehanabad. The enquiry report was submitted behind his back and in complete disregard of the mandatory procedural safeguards, a copy of which was not furnished to the petitioner.

11. It is the specific case of the petitioner that, before passing the order of punishment, a second show-cause notice was not served upon him, nor was any opportunity of personal hearing afforded. The entire proceeding, according to him, was conducted in violation of principles of natural justice. Non-supply of inquiry report and second show cause has caused serious prejudice to the petitioner.

12. During the entire period of suspension, the petitioner was neither paid his salary nor even the subsistence allowance to which he was entitled under the law.

13. Assailing the appellate order, learned counsel for the petitioner submits that the appellate order also vitiated on the ground of non-application of mind and has been passed in a



cryptic manner. The said order is nothing but a mere reiteration of the original punishment order passed by the disciplinary authority, without any independent reasoning, analysis of the grounds urged in appeal, or consideration of the procedural lapses pointed out by the petitioner.

14. To sum up, his argument is that the entire departmental proceeding is vitiated on multiple counts. Firstly, the petitioner was subjected to double jeopardy as charges were framed twice for the same misconduct. Secondly, the inquiry was conducted ex-parte without issuance of any show-cause notice or providing him any opportunity to defend himself. Thirdly, the order of punishment was passed after an unexplained delay of six years, thereby, causing grave prejudice to him. Fourthly, the denial of subsistence allowance during the period of suspension is not only violative of statutory provisions but also violates the petitioner's fundamental right guaranteed under Article 21 of the Constitution.

15. On the other hand, learned counsel for the State submits that during posting of the petitioner as In-charge Headmaster of Middle School, Kochahasa, Karpi Block, serious complaints were received regarding petitioner's conduct,



including the allegation that he remained absent from the school at Kinjar without any intimation to the competent authorities and that irregularities were found in the implementation of the Mid-Day Meal Scheme under his supervision. The entire departmental proceeding starting from suspension order, submission of the inquiry report, passing of the punishment order till the passing of appellate order are strictly in accordance with law after following the due process and that there has been no violation of the principles of natural justice.

16. I have heard learned counsel for the parties and have perused the materials available on record

17. The record discloses that the petitioner was served with two separate charge-memos on two different occasions. The first was issued by the then District Superintendent of Education, Jehanabad, on 06.05.2010, and the second by the District Superintendent of Education, Arwal, on 04.06.2011. Though issued on separate dates, both charge-memos substantially contain the same set of allegations. However, it appears that the inquiry was conducted only with reference to the second charge memo issued by the District Superintendent of Education, Arwal. The Block Education Officer, Kurtha, was



appointed as the Enquiry Officer and Block Education Officer, Karpi as Presenting officer. The allegations put forth against the petitioner as evident from memo of charge dated 04.06.2011 are as follows:-

(I) While functioning as the In-charge Headmaster of Middle School, Kinjhar, the petitioner remained absent from the school on 09.02.2010 without giving any prior information or obtaining permission from the competent authority.

(ii) During the period of his suspension vide Memo No. 494 dated 17.02.2010 issued by the District Superintendent of Education, Jehanabad, the petitioner did not report at the Headquarters as required under the suspension order.

(iii) That the petitioner disobeyed the directions issued by the Superior officers, appointing officers as well as controlling officers.

(iv) That the petitioner did not comply with Memo No. 493 dated 14.05.2010 thereby violating the order of the superior authority.

(v) During his functioning as the Headmaster, irregularities were committed by the petitioner in the



Mid-Day Meal Scheme.

18. From perusal of the memo of charge, it would be evident that neither the charge-memos contains the statutory particulars required under Rule 17(3) of the Bihar CCA Rules. The charge-memos does not have any list of documents or list of witnesses as required by Rule 17(3) by whom the charges were proposed to be proved. The absence of these essential ingredients goes to the very root of the proceeding, for without being apprised of the documentary and oral evidence proposed to be relied upon. In order to sustain the charges, the delinquent cannot be expected to defend himself effectively. This Court therefore finds that the very initiation of the departmental proceeding suffers from a foundational illegality.

19. It further appears that neither the petitioner nor the respondents have placed the inquiry report on record. In the absence of the report, this Court is unable to satisfy itself as to whether the inquiry was conducted in accordance with law, whether evidence was led in support of the charges, or whether the petitioner was afforded an opportunity to participate in the proceeding. The stand of the petitioner is that no notice of hearing was ever served upon him by the Enquiry Officer and that he was never given an opportunity to offer his defence. It is



also his specific case that the disciplinary authority did not issue any second show-cause notice along with a copy of the inquiry report prior to imposition of the punishment, which is mandatory requirement under CCA Rules. These assertions have not been specifically denied on behalf of the State, and in the absence of such, the submissions of the petitioner is to be accepted.

20. This Court finds that the appellate order dated 16.01.2018 passed by the Regional Deputy Director of Education, Magadh Division, Gaya, is cryptic and non-speaking. The appellate authority has merely reiterated the conclusion of the disciplinary authority without assigning any independent reason, and without examining the correctness of the procedure adopted in the inquiry. The appellate order is, thus, nothing but a mere mechanical affirmation and suffers from clear non-application of mind.

21. Considering the facts as discussed above, this Court is satisfied that the punishment order, dated 01.10.2016 as well as the appellate order, dated 16.01.2018, stand vitiated which violates the principles of natural justice causing serious prejudice to the petitioner.

22. Accordingly, the writ petition is allowed. The order of



punishment dated 01.10.2016 passed by the District Programme Officer (Establishment), Arwal, as well as the appellate order dated 16.01.2018 passed by the Regional Deputy Director of Education, Magadh Division, Gaya, is hereby quashed.

23. The petitioner is entitled to be paid his full salary for the suspension period and the consequential benefits. The entire payments shall be made to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

(Anil Kumar Sinha, J)

HarshPandey/-

AFR/NAFR	AFR
CAV DATE	13.10.2025
Uploading Date	07.11.2025
Transmission Date	N.A.

