

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16318 of 2022

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Kumar Patel Son of Shri Tripurari Sharan Singh Resident of Road no.- 22,
Plot No.- 148, Sri Krishna Nagar, Patna, P.S.- Buddha Colony, P.O.-
Kidwaipuri, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Registrar, Cooperative Societies, Bihar, Patna.
2. The Registrar, Cooperative Societies, Bihar, Patna.
3. The Assistant Registrar, Cooperative Societies, Hajipur, Anchal, Hajipur, District- Vaishali.
4. The Bihar State Food and Civil Supply Corporation Limited, Through the Managing Director, Daroga Prasad Rai Path, R Block, Road No.-2, Pin- 800001.
5. The Managing Director, Bihar State Food and Civil Supply Corporation Limited, Daroga Prasad Rai Path, R Block, Road No.- 2, Pin- 800001.
6. Bihar Public Service Commission Through the Chairman, Bailey Road, Patna.
7. The Chairman, Bihar Public Service Commission, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjeev Kumar Mishra, Sr. Advocate
	:	Ms.Manini Jaiswal, Advocate
	:	Mr.Manas Rajdeep, Advocate
	:	Ms.Adya Pandey, Advocate
	:	Ms.Megha Rani, Advocate
For the BPSC	:	Mr.Sanjay Pandey, Advocate
	:	Mr.Nishant Kumar Jha, Advocate
For the BSFC	:	Mr.Shailendra Kumar Singh, Advocate
	:	Mrs.Shilpi Singh, Advocate
For the Respondent/s	:	Mr.AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 02-02-2026

Heard the parties.

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



“(i) For quashing the letter no. 3936 dated 27.5.2022 issued under the signature of respondent cooperative Societies Bihar Patna by which the application of the petitioner for voluntary retirement has been rejected.

(ii) For quashing the letter contained in memo no 7305 dated 13.9.2022 issued under the signature of respondent cooperative Societies Bihar, Patna by which the application of the petitioner for voluntary retirement has been rejected.

(iii) For quashing the letter contained in memo no 7306 dated 13.9.2022 issued under the signature of respondent cooperative Societies, Bihar, Patna by which the petitioner was directed to file show cause with respect to three allegations when the relation of master and servant between the petitioner and the respondent State ceased to exist after a period of 90 days from the date of submission of his application dated 25.05.2017 for voluntary retirement.

(iv) During the pendency of the writ petition stay the further proceedings pursuant to the letter contained in memo no 7306 dated 13.9.2022 as contained in Annexure to this writ petition.

(v) Any other order or orders as your Lordships may deem fit and proper in the facts and circumstances of the case be granted to the petitioner.”

3. Learned Senior Counsel for the petitioner submits that the petitioner was appointed on the post of Cooperative Extension Officer on 26.02.1997 on the recommendation of the Bihar Public



Service Commission and was sent on deputation to the Rural Development Department in the year 2010, where he was posted as Block Development Officer, Lauria. Subsequently, the services of the petitioner was placed at the disposal of the State Food Corporation, where he was posted as Assistant Manager.

4. An advertisement was published by the Bihar Public Service Commission (hereinafter referred to as “BPSC”) vide advertisement No. 56 of 2014 for appointment on 290 posts of Assistant Professor in the faculty of Psychology in different Universities in the State of Bihar. Subsequently, vide office order contained in Memo No. 2663 dated 25.02.2016, the services of the petitioner was repatriated to his parent department.

5. It has further been contended by the learned Senior Counsel for the petitioner that a departmental proceeding was initiated against the petitioner under Rule 17(2) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005. The charges against the petitioner were that while working as District Manager, State Food Corporation, Bhojpur, Ara, he was involved in lapses in performance of duty, illegal storage and black marketing of subsidized rice.

6. In the meantime the petitioner applied for appointment to the post of Assistant Professor and was called for



interview, which was scheduled to be held between 29.11.2016 to 01.12.2016. The petitioner filed an application before the competent authority on 11.11.2016, seeking grant of one day leave to enable him to appear in the interview for the post of Assistant Professor, but no decision was taken on the application submitted by the petitioner on 11.11.2016. The petitioner, however, appeared in the interview and was declared successful. The petitioner was appointed as Assistant Professor, Psychology, on the recommendation of the BPSC and was allotted Veer Kunwar Singh University, Ara, by the Department of Education, Government of Bihar, Patna. Subsequently, vide notification contained in Memo No. 915/Estab/17 dated 01.06.2017, issued under the signature of the Registrar, Veer Kunwar Singh University, Ara, the petitioner was posted in SVP, College, Bhabhua, under Veer Kunwar Singh University, Ara.

7. It is further case of the petitioner that on 18.05.2017 he submitted a representation before the Registrar, Cooperative Societies, Bihar, Patna with a request to expedite the departmental proceeding, which was initiated vide order dated 02.06.2016. The petitioner gave an application for voluntary retirement from the services of the State Food Corporation on 13.06.2017 and joined S.V.P. College, Bhabhua on 14.06.2017.



8. It has been further contended by the learned Senior Counsel for the petitioner that vide Memo No. 6856 dated 19.07.2019, issued under the signature of the Registrar, Cooperative Societies, Bihar, Patna, the petitioner was inflicted with the punishment of Censure and stoppage of three increments with non-cumulative effect, which was accepted by the petitioner as no appeal was filed against the said order of punishment dated 19.07.2019. The petitioner was discharging his duties at S.V.P. College, Bhabhua, but all of a sudden, vide Letter No. 3936 dated 27.05.2022, issued under the signature of the Registrar, Cooperative Societies, Bihar, Patna, addressed to the petitioner, his application for voluntary retirement was rejected. Immediately thereafter, the petitioner filed a representation on 25.07.2022 before the Registrar, Cooperative Societies, Bihar, Patna, stating therein that since the order of punishment had lost its force w.e.f 18.07.2022, therefore, his application for voluntary retirement may again be considered sympathetically.

9. It has further been contended by the learned Senior Counsel for the petitioner that a show-cause notice was issued to the petitioner vide Memo No. 7306 dated 13.09.2022 issued under the signature of the Registrar, Cooperative Societies, Bihar, Patna wherein the petitioner was directed to submit his explanation



through the competent authority within 15 days on the three charges mentioned therein which are reproduced hereinbelow:-

“सामान्य प्रशासन विभाग द्वारा परामर्श के क्रम में ध्यान आकृष्ट किया गया है कि आपके द्वारा निम्नांकित तीन कार्य स्वतः अपने मर्जी से की गई है, जो अनुशासनहीनता का द्योतक है तथा इन तीनों कदाचार के लिए कार्यवाई का परामर्श दिया गया है—

- a) व्याख्याता के पद पर आवेदन को विभाग द्वारा अग्रसारित नहीं कराया जाना,
- b) विभागीय अनुमति के बिना साक्षात्कार में उपस्थित होना, एवं
- c) स्वैच्छिक सेवानिवृत्ति के संबंध में अपने आवेदन को बिना स्वीकृति के पदत्याग कर चले जाना।

अतः निदेश है कि उपरोक्त तीनों बिन्दुओं पर अपनी कारणपृच्छा, अपने तत्कालीन पदस्थापन कार्यालय यथा सहायक निबंधक, सहयोग समितियों, हाजीपुर अंचल के माध्यम से, 15 दिनों के अन्दर समर्पित करना सुनिश्चित करें।”

10. On the representation filed by the petitioner on 25.07.2022, the Registrar, Cooperative Societies, Bihar, Patna again passed an order contained in Memo No. 7305 dated 13.09.2022 wherein it was contended that the petitioner has applied for grant of voluntary retirement on 13.06.2017 and without waiting for the approval of the competent authority he proceeded to join SVP College, Bhojpur, Ara, on 14.06.2017, therefore he did not work on the post of the Cooperative Extension Officer from the period 19.07.2019 to 18.07.2022 i.e. the date during which the punishment order was subsisting, therefore, despite end of the period for which the punishment order was in



effect, the punishment was not implemented. The application for voluntary retirement was again rejected.

11. It has been submitted by the learned Senior Counsel for the petitioner that the Registrar, Cooperative Societies, Bihar, Patna, on the one hand, asked for an explanation by issuing a show-cause notice to the petitioner vide Memo No. 7306 dated 13.09.2022, but on the other hand, prior to issuance of the show-cause, on the same day vide Letter No. 7305 dated 13.09.2022, rejected the application for voluntary retirement of the petitioner on the grounds mentioned in the said letter.

12. A counter affidavit has been filed on behalf of Respondent No. 2, wherein it has been contended that the petitioner, without approval of the competent authority, applied for appointment on the post of Assistant Professor, since his application was not submitted through the proper channel. It has further been contended that the petitioner, even before appearing in the interview, did not obtain any permission from his parent department, i.e., Cooperative Societies. Further, the petitioner submitted his application for VRS on 13.06.2017 and without waiting for approval, proceeded to join the post on 14.06.2017. He again submitted his application for VRS on 05.08.2019, but in the meantime, a departmental proceeding was initiated against the



petitioner for alleged misconduct while he was posted as District Manager at Ara, which culminated in the award of punishment of Censure and stoppage of three increments with non-cumulative effect. It has further been averred that opinion was sought from the General Administration Department and the Finance Department on the issue with regard to grant of VRS, wherein the General Administration Department opined that during the intervening period of punishment, permission for VRS cannot be granted. It has further been contended that upon finality of the departmental proceeding, which resulted in punishment of Censure and stoppage of three increments, the application for VRS was rejected, but in view of the advice of the General Administration Department that since the petitioner, without obtaining NOC from the Department joined services in VKS University, Ara, the said act amounts to an act of indiscipline and as such, a show-cause notice was issued vide Memo No. 7306 dated 13.09.2022.

13. Having heard the rival submissions of the parties and on perusal of the materials available on record, it appears that admittedly the petitioner did not submit his application for appointment to the post of Assistant Professor through the proper channel. Further, the petitioner had submitted an application on 11.11.2016 for grant of permission to appear in the interview



which was to be held from 29.11.2016 to 01.12.2016, but the respondent authorities did not bother to take any decision on the same. Further, it is also an admitted fact that the petitioner gave his application for voluntary retirement on 13.06.2017, but despite waiting for its approval from the competent authority, proceeded to join S.V.P. College, Bhabhua on the next day, i.e., 14.06.2017. The petitioner was inflicted with the punishment of Censure and stoppage of three increments with non-cumulative effect, which he did not choose to challenge. The same lost its effect on 18.07.2022.

14. In my considered opinion, the petitioner has already suffered for the lapses on his part, which he has not been able to explain, but since for those lapses he has already suffered and punishment was inflicted upon him, which he accepted and the period of punishment has already come to an end. Therefore, the order impugned contained in Memo No. 7305 dated 13.09.2022 deserves to be set aside and is accordingly set aside. Since the grounds mentioned therein are not sustainable. The respondent no. 2, i.e., the Registrar, Cooperative Societies, Bihar, Patna, is directed to consider the application of the petitioner for grant of voluntary retirement afresh, considering the fact that the order of punishment loses its effect on 18.07.2022 and the petitioner has



already suffered a lot for his lapses. The decision must be taken within a period of six weeks from the date of receipt/production of a copy of this order and the same shall be communicated to the petitioner at his present place of posting through the Registrar, VKS University, Ara.

15. It is expected that while taking the decision, the Registrar, Cooperative Societies, Government of Bihar, Patna, will take into consideration the fact that the petitioner has already suffered for his lapses and that any further punishment would result in further severe consequences for him. The Registrar, Cooperative Societies, should take a sympathetic view in the matter, while passing the order.

16. With the aforementioned observations and directions, the writ petition shall stand disposed of.

(Ritesh Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.02.2026
Transmission Date	

