

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17206 of 2013**

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Mrityunjai Prasad Singh, Son of Late Anbir Prasad Singh, Resident of Ganesh Nagar, Tatma Tola, P.S. - Khazanchi Hat, District - Purnea, Retired Assistant Development Officer, Bihar Industrial Area Development Authority (Headquarter), Patna

... .. Petitioner/s

Versus

1. The Chairman, Bihar Industrial Area Development Authority, Udyog Bhavan, East Gandhi Maidan, Patna.
2. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhavan, East Gandhi Maidan, Patna.
3. The Secretary, Bihar Industrial Area Development Authority, Udyog Bhavan, East Gandhi Maidan, Patna.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Prashant Sinha, Advocate  
For the Respondent/s : Mr. Piyush Lall, Advocate

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**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**

**C.A.V. JUDGMENT**

**Date : 10-03-2026**

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

2. The petitioner has filed the instant application for the following relief(s):

*“(i) For issuance of writ in the nature of certiorari for quashing of the order dated 18-02-2013 passed by the Chairman, Bihar Industrial Area Development Authority, Patna (hereinafter to be referred to as BIADA only) in Appeal No. 03/2012, whereby he has been pleased to dispose of the appeal preferred by the Petitioner against*



*the order of punishment of censure upon the Petitioner without any interference in the order of punishment, while admitting that the another employee should have been proceeded against for the charges levelled against the Petitioner, and the claim of the Petitioner for payment of back wages for the period he remained compulsorily retired in between October, 2007 to 19-06-2009 has been rejected.*

*(ii) For issuance of writ in the nature of certiorari for quashing of the order contained in Memo No. 361 dated 20-01-2012 issued by under the signature of the Secretary, BIADA whereby it has been communicated that the review petition preferred by the appellant against the order of punishment contained in Memo No. 4092 dated 28-07-2011 has been decided to be rejected.*

*(iii) For issuance of writ in the nature of certiorari for quashing of the order contained in Memo No. 4092 dated 28-07-2011 passed by the Managing Director, BIADA whereby the appellant has been held guilty of charge No. 11 in the memo of charge and he has been awarded a punishment of censure to be entered in his A.C.R. in the period of 2007-2009. Further, it has also been held that the appellant will not be entitled for anything except the subsistence allowance for the period he remained under suspension.*

*(iv) For a direction to the respondent authorities to pay the back wages to the Petitioner for the period he remained under compulsory retirement from October, 2007 to 19-06-2009 and*



*for payment of entire salary for the period the Petitioner remained under suspension.*

*(v) For necessary direction to the respondent authorities to pay the back wages to the Petitioner along with arrears of Dearness Allowance as admissible to the Petitioner.*

*(vi) For any other direction, which your Lordships may deem fit and proper in the facts and circumstances of the case.”*

3. The relevant facts in brief are that the petitioner was appointed as Assistant Development Officer (Chemical) on 26.6.1978 in the erstwhile Darbhanga Industrial Area Development Authority. With the merger of the three Industrial Area Development Authorities of Bihar in the year 2003, Bihar Industrial Area Development (BIADA) was formed and the petitioner became an employee of BIADA.

4. The petitioner was proceeded against in a departmental proceeding and by order dated 29.9.2007, 5 out of the 13 charges levelled against him having been proved in the enquiry, an order of punishment was passed compulsorily retiring him w.e.f. 30.9.2007. The order of punishment of compulsory retirement of the petitioner was challenged by him by filing CWJC no.16950 of 2007. This case was heard along with the batch of applications and by order dated 5.5.2009 passed in CWJC no.11196 of 2007 (Ram Pravesh Singh vs.



BIADA) and analogous cases, the impugned orders in each of the writ applications whether of termination or compulsory retirement were set aside and the petitioners directed to be reinstated. The writ applications having been allowed, on the petitioners pressing for back wages, the learned Single Judge observed that if the petitioner prefers an application for back wages, the authorities are required to decide the same in accordance with the settled principles for grant of back wages, by a reasoned and speaking order after due opportunity to the petitioner within a maximum period of eight weeks.

5. The petitioner filed an application for grant of back wages before the respondent authorities. The joining of the petitioner was accepted and the petitioner was once again placed under suspension on 30.6.2009. In the departmental proceeding that followed, by order dated 28.7.2011, an order of punishment of censure for the period 2007-2009 was given and it was further ordered that for the period of suspension, no other amount except for the subsistence allowance would be payable, however, the period of suspension shall be counted for the purpose of calculation of gratuity and other post retiral dues. The review preferred by the petitioner was rejected by order dated 20.1.2012 and also the appeal preferred by him was



dismissed by order dated 18.2.2013 not interfering with the order of punishment. It may be mentioned here that the petitioner superannuated on 31.1.2012.

6. It is submitted by learned counsel for the petitioner that the order of punishment of compulsory retirement w.e.f. 30.9.2007 having been set aside by this Court by its order dated 5.5.2009 passed in CWJC no.16950 of 2007 and consequent thereto, the petitioner having been reinstated in service, the respondents be directed to pay the petitioner the back wages for the period he remained compulsorily retired ie from October 2007 to 19.6.2009. Reliance has been placed by the petitioner on the judgment in the case of *Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) and others; (2013) 10 SCC 324* and in the case of *The Bihar Industrial Area Development Authority & Ors. vs. Subhash Singh; 2025 (4) PLJR 46*.

7. In response, opposing the prayer made in the writ application, it is submitted by learned counsel for the respondents that on the order of punishment of compulsory retirement inflicted on the petitioner having been set aside by order dated 5.5.2009 in CWJC no.16950 of 2007, the petitioner was once again proceeded against in a departmental proceeding



wherein order of punishment dated 28.7.2011 came to be passed inflicting the punishment of censure on the petitioner and that he would not be entitled for any other amount for the period of suspension except the subsistence allowance already paid to him though the said period would be counted for his post retiral dues. It is submitted that the said order of censure having been upheld even in the review petition and the subsequent appeal preferred by the petitioner, there is no error in the order of the respondents denying the arrears of difference of salary to the petitioner for the period of compulsory retirement. Reliance has been placed by the learned counsel for the respondents on the judgment in the case of *The Chairman, Bihar Industrial Area Development Authority & Ors. vs. Arvind Kumar Singh & Anr.; 2017 (1) PLJR 479.*

8. Heard learned counsel for the parties and perused the material on record.

9. The relevant facts in brief are that the respondent-BIADA having proceeded against the petitioner in a departmental proceeding came to pass an order of punishment dated 29.9.2007 issued under the signature of the Managing Director, BIADA compulsorily retiring the petitioner from service. The order of compulsory retirement was challenged by



the petitioner in CWJC no.16950 of 2007 which was heard in a batch of applications and by order dated 5.5.2009 passed in CWJC no.11196 of 2007 and analogous cases, the impugned orders of termination or compulsory retirement in all the writ applications were set aside and the petitioners reinstated. As such, the petitioner herein also was reinstated. The respondents thereafter once again placed the petitioner under suspension and proceeded with a fresh departmental proceeding. In this proceeding, the Conducting Officer in his enquiry report found only charge no.11 to be proved and by order dated 28.7.2011 inflicted the punishment of censure for the year 2007-09 and that for this suspension period, he would not be paid other allowance except the subsistence allowance already paid though the period would be counted for gratuity and other post retiral dues. Even in the review petition and the appeal preferred by the petitioner, both were rejected by orders dated 20.1.2012 and 18.2.2013 without interfering with the order of punishment.

10. It may be observed here that so far as the order dated 29.9.2007 compulsorily retiring the petitioner is concerned, the same was set aside by this Court vide its order dated 5.5.2009. Even in the next departmental proceeding started against the petitioner, on perusal of the order of



punishment dated 28.7.2011, it would transpire that the Conducting Officer in his enquiry report found only charge no.11 to have been prima facie proved and imposed the punishment of censure which is a minor punishment under the CCA Rules.

11. In the case of **Deepali Gundu Surwase** (*supra*), the Hon'ble Supreme Court held as follows :-

*“38.5. The cases in which the competent court or tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimising the employee or workman, then the court or tribunal concerned will be fully justified in directing payment of full back wages. In such cases, the superior courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc. merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full back wages or the employer's obligation to pay the same. The courts must always keep in view that in the cases of wrongful/illegal termination of service, the wrongdoer is the employer and the sufferer is the employee/workman and there is no justification to give a premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full back wages.”*



12. The first order of compulsory retirement was set aside by order dated 5.5.2009 on the ground that in the departmental proceeding neither a Presenting Officer was appointed nor any oral or documentary evidence was led on behalf of the prosecution nor was any opportunity to cross-examine given to the petitioner.

13. In the opinion of the Court, the proceedings were in gross violation of the statutory provisions and the principles of natural justice and thus the order of punishment was set aside by this Court.

14. In view of the facts and circumstances stated herein above, the judgment of the Hon'ble Supreme Court in the case of *Deepali Gundu Surwase (supra)* would be fully applicable to the case of the petitioner.

15. So far as the judgment in the case of *the Chairman, Bihar Industrial Area Development Authority & Ors. (supra)* is concerned, in the opinion of the Court, the same is not applicable to the facts of the instant case. It is for the reason that on the first order of punishment/compulsory retirement having been set aside by this Court in its order dated 5.5.2009, the order of punishment dated 28.7.2011 (Annexure-R/5) in paragraph no.4 clearly states that a fresh departmental



proceeding was started with Dr. Girish Kumar, Secretary, BIADA as the Conducting Officer and Sri Rajesh Kumar, Law Consultant as the Presenting Officer.

16. In view of the facts and circumstances of the case, the Court holds that the petitioner is entitled for full back wages for the period that he remained compulsorily retired ie from October 2007 to 19.6.2009.

17. The respondents are directed to pay the difference of arrears of salary for the period from October 2007 to 19.6.2009 to the petitioner after deducting the subsistence allowance and/or any other amount already paid. The respondents shall pay the same within a period of three months from the date of receipt/production of a copy of this order.

18. The writ application stands allowed.

**(Partha Sarthy, J)**

Saurabh/-

AFR/NAFR	
CAV DATE	19.12.2025
Uploading Date	10.03.2026
Transmission Date	

