

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1051 of 2025

Pradip Kumar Pandit, Son of Late Shakti Nath Pandit Resident of Ward No.-
25, Mohalla- Sameer Nagar, Post- Sarvodaynagar, Near Koshi College, P.S.-
Khagaria, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of General Administration, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of General Administration, Government of Bihar, Patna.
3. The Divisional Commissioner, Munger.
4. The District Magistrate, Khagaria.
5. The Sub- Divisional Officer, Gogri, District- Khagaria.
6. The Senior Deputy Collector-cum- Enquiry Conducting Officer, Khagaria Collectorate, Khagaria.
7. The Deputy Collector, Establishment, Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajeev Nayan, Advocate
For the Respondent/s : Mr. Anant Prasad Singh, SC-15
Ms. Deepika Sharma, AC to SC-15

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
CAV JUDGMENT

Date: 19-02-2026

1. The petitioner was an Upper Division Clerk in the office of Sub-Divisional Officer, Gogri, Khagaria. On the charge of misconduct, he was subjected to departmental enquiry and dismissed from service *vide* Memo No. 152, dated 20th of March, 2015. The petitioner also filed a departmental appeal, which was also dismissed on 5th of December, 2015. Against the order of dismissal, the petitioner preferred an appeal, which was also dismissed by



the Respondent No. 3 *vide* order, dated 3rd of October, 2024.

2. The petitioner has challenged the aforesaid orders by filing the instant application under Article 226 of the Constitution of India.

3. It is pertinent to mention that on the basis of a complaint, filed by one Aditya Kumar before the Superintendent of Police, Vigilance on 15th of April, 2014, a Vigilance Case No. 33 of 2014 was instituted and the petitioner was arrested by the Vigilance Department while accepting bribe from the complainant for discharging his official duties. On account of registration of a criminal case against the petitioner, a departmental proceeding was also initiated *vide* Memo No. 397, dated 26th of July, 2014 and memorandum of charge was served against him on 13th of August, 2014.

4. It is the grievance of the petitioner that in the departmental proceeding, the Presenting Officer failed to produce any witness against the petitioner. Though the memorandum of charge was not proved against him in accordance with the provisions contained in Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as “CCA Rules” for



short) as well as the principles laid down by the Hon'ble Supreme Court, the Enquiry Officer submitted his report on 12th of December, 2014, holding the petitioner guilty of the departmental charges. On the basis of such perfunctory enquiry report, the petitioner was directed to file second show-cause. He submitted his reply to the show-cause before the District Magistrate, Khagaria, but the District Magistrate *vide* his order, dated 20th of March, 2015, dismissed the petitioner without adhering to the basic principles of departmental proceedings, contained in CCA Rules and the principles, laid down by the Hon'ble Supreme Court. Against the order of dismissal, the petitioner filed a writ petition, bearing, C.W.J.C. No. 4380 of 2016 before this Court. By an order, dated 28th of June, 2023, the aforesaid writ petition was allowed, on contest. The order of dismissal from service passed against the petitioner was set aside and the matter was remitted back to the Respondent No. 3 to pass a fresh order in accordance with law.

5. The Respondent No. 3 again passed the similar order of dismissal of the petitioner from service without considering the fact that the order of dismissal was passed by the District Magistrate, Khagaria, though no charge was



proved against him. The Presenting Officer failed to produce any witness in order to prove the alleged misconduct during enquiry proceeding. Only on the basis of a purported complaint and a charge-sheet, the petitioner was held guilty, which is against the provisions contained in CCA Rules.

6. The Respondent Nos. 4, 5 and 7 have filed a counter affidavit, alleging all material allegations made by the petitioner against the departmental proceeding, challenging the order of termination of the petitioner from his service.

7. It is specifically stated by the respondents that the petitioner was caught red-handed by a team of Vigilance Department while taking bribe on 15th of May, 2014. Accordingly, Vigilance P. S. Case No. 33 of 2014, dated 15th of May, 2014 was registered against the petitioner. Before he was caught red-handed by the officers and staff of Vigilance Investigation Bureau, one Aditya Kumar lodged a complaint against the petitioner that he demanded bribe of Rs. 5,000/- for an official job. After he was arrested, the petitioner was suspended under Rule 9(2)(a) of the CCA Rules. The suspension order was followed by a departmental proceeding and the petitioner was finally dismissed from his service by



the District Magistrate, Khagaria *vide* order dated 20th of March, 2015. The said order was affirmed in Service Appeal No. 8 of 2015 by the Divisional Commissioner, Munger on 15th of December, 2015.

8. It is submitted by the contesting respondents that the petitioner previously filed C.W.J.C. No. 4380 of 2016, which was disposed of on 28th of June, 2023, holding *inter alia*, that the Appellate Authority did not pass the order in terms of Rule 27 of Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 and the impugned order was not a speaking order. Therefore, the said order was set aside with a direction to revisit to the petitioner's memorandum of appeal and to pass a fresh order. In compliance of the order passed by the Writ Court in C.W.J.C. No. 4380 of 2016, the Divisional Commissioner, Munger again examined the defence put forward by the appellant and the evidence available on record, including the report submitted by the disciplinary authority and it was found that the petitioner was given sufficient opportunity to present his case in course of departmental proceeding and also in appeal. Therefore, on further consideration of the appeal, the petitioner was again dismissed from service.



9. The petitioner has filed a rejoinder to the said counter affidavit reiterating the same allegations as made out in the writ petition.

10. The petitioner has also filed I. A. No. 1 of 2025, stating, inter alia, that during pendency of the instant writ petition, the case instituted by the Vigilance Investigation Bureau and registered as Special Vigilance Case No. 44 of 2014 (State v. Pradip Kumar Pandit) ended in acquittal of the petitioner *vide* judgement dated 4th of September, 2025.

11. These are all about the pleadings of the parties.

12. This Court has heard the learned Advocates on behalf of the petitioner and the Respondents.

13. This Court has also perused the documents filed by the respective parties in the form of annexures with their pleadings.

14. It is needless to say that charge(s) in a departmental proceeding is to be proved on the principle of preponderance of probability. Strict proof of the charge is not warranted. The departmental proceeding is carried out on the basic principles of rule of natural justice. A delinquent employee cannot be punished without following proper



procedure of enquiry taking into consideration the materials brought on record. It is not in dispute that in the instant case during the departmental enquiry, no witness was examined to prove the charge against the charged employee. The petitioner was terminated from service because of the fact that he was arrested by Vigilance Investigation Bureau on the allegation that he was taking bribe of Rs. 5,000/- from the complainant in order to discharge his official duties and a case under Sections 7 and 13 of the Prevention of Corruption Act was registered against him. Mere arrest of a person on the allegation of taking bribe by the Police Authority does not prove the charge of misconduct. It is the bounden duty of the Enquiry Officer to examine the witnesses in order to prove the charge of misconduct. The complaint made against the petitioner was required to be brought on record along with the documents relating to investigation, and finally the charge-sheet filed by the police against the petitioner.

15. In *Roop Singh Negi v. Punjab National Bank*, reported in (2009) 2 SCC 570, the Hon'ble Supreme Court held that the purported evidence collected during the investigation by the Investigating Officer against the accused by itself could not be treated to be evidence in the



disciplinary proceeding. In the instant case, no witness was examined to prove the said documents. In ***Roop Singh Negi (supra)***, the witnesses on behalf of the management at least tendered the documents before the Enquiry Officer but did not prove the contents thereof. Under the aforesaid circumstances, the Hon'ble Supreme Court was pleased to quash the departmental proceeding. In the instant case, even the documents intended to be relied upon by the respondent authority against the petitioner was not even tendered by examining any witnesses.

16. The Hon'ble Supreme Court in the case of ***Kuldeep Singh v. Commissioner of Police & Ors.***, reported in ***(1999) 2 SCC 10*** was pleased to observe that the Court cannot sit in appeal over the findings of the disciplinary authority and assume the role of Appellate Authority. But this does not mean that in no circumstance can the Court interfere. The power of judicial review available to the High Court as also to the Apex Court under the Constitution takes in its stride the domestic enquiry as well and it can interfere with the conclusions reached therein, if there was no evidence to support the findings or the findings recorded were such, as could not have been reached by an ordinary



prudent man or the findings were perverse or made at the dictate of the superior authority.

17. In the instant case, this Court finds that the Presenting Officer did not perform his duty by presenting the case of the department before the Enquiry Officer and, prima facie, it seems that the Enquiry Officer himself assumed the role of Presenting Officer. The Court on number of occasions highlighted the role of the Presenting Officer vis a vis the Enquiry Officer. Reliance may be made in this regard to the decisions in case of *State of Uttar Pradesh v. Saroj Kumar Sinha*, reported in (2010) 2 SCC 772 and *Panchanan Kumar v. The Bihar State Electricity Board & Ors.*, reported in (1996) 1 PLJR 401.

18. In *Radhey Krishna Singh v. The State of Bihar & Ors.*, C.W.J.C. No. 9533 of 2023, this Court vide judgement, dated 11.07.2024 under the identical facts and circumstances of this case, relying on the above-stated decisions as well as the decisions of this Court in *Vijendra Prasad v. The State of Bihar & Ors.*, reported in 2019 (4) PLJR 1046 and *Arun Kumar v. State of Bihar & Ors.*, reported in 2019 (3) BLJ 221, quashed the order of punishment passed by the disciplinary authority and affirmed



by the Appellate Authority.

19. It would not be out of place to mention that during pendency of the instant writ petition, the criminal case instituted against the accused ended in acquittal, as the prosecution failed to bring home the charge of corruption under Section 7 read with Section 13 of the Prevention of Corruption Act.

20. The learned counsel on behalf of the petitioner refers to the said fact by filing an Interlocutory Application, bearing I.A. No. 1 of 2025.

21. The learned Advocate on behalf of the respondents, on the other hand, submits that the standard of proof in a departmental proceeding is not similar with that of the disciplinary enquiry conducted by the employer. It is settled principle of law that burden lies upon the prosecution in a criminal trial to prove the case beyond reasonable doubt. However, in a disciplinary enquiry, the burden upon the department is limited and it is required to prove its case on the principle of preponderance of probability.

22. In support of his contention, he refers to a case of Hon'ble Supreme Court in *Airports Authority of India v. Pradip Kumar Banerjee*, reported in *2025 INSC 149*.



23. The learned counsel for the respondents also refers to the case of *Union of India & Ors. v. P. Gunasekaran*, reported in (2015) 2 SCC 610, while making submission as to the scope of the High Courts' jurisdiction under Article 226/227 of the Constitution of India. It is held by the Hon'ble Supreme Court that the power of High Courts is limited to consider the proportionality of punishment so long as the punishment does not shock the conscience of the Court. When it is found that the disciplinary authority came to the conclusion that the delinquent employee lacks integrity, moral uprightness and honesty, it is within the domain of the disciplinary authority to terminate his service. Under such circumstances, it is even not open to the High Court to go into the proportionality of punishment or substitute the same with a lesser or different punishment. On the same issue, the learned Advocate on behalf of the respondents refers to the decision in the case of *The Karnataka Lokayuktha Bagalkote District, Bagalkot v. Chandrashekar & Anr.*, reported in 2026 INSC 31 and *State Bank of India & Ors. v. P. Zadenga, Civil Appeal No. 2518 of 2012*, decided on 3rd of October, 2023.

24. Having heard the submissions made by the



learned counsels on behalf of the parties and upon careful consideration of the decisions referred to by the learned counsels, this Court intends to record, at the outset, that the jurisprudence with regard to the standard of proof in a departmental proceeding and a criminal trial is no longer *res integra*. It is a settled principle of law that in a departmental proceeding, the standard of proof is based on “preponderance of probability”, while in a criminal trial, it is “proved beyond all reasonable doubts”. “Preponderance of probability refers to the greater likelihood of one event or other over another”. In order to prove, a departmental charge on the principle of preponderance of probability, it is the bounden duty of the disciplinary authority to take resort to the standard of proof where alleged guilt of the delinquent employee is found to be more probable than his innocence. This rule of probability can only be proved by producing satisfactory evidence.

25. In the instant case, Inquiry Officer submitted his report on the ground that the delinquent employee was arrested allegedly while taking bribe. The said fact has not been brought in evidence during departmental enquiry. The delinquent employee did not get any opportunity to cross-



examine any witness as the department did not produce any witness to prove the charge against him.

26. In *Airports Authority of India* (supra), *P. Gunasekaran* (supra) and *The Karnataka Lokayuktha Bagalkote District, Bagalkot* (supra), the employer produced evidence during departmental enquiry to prove the charge against the charged officer on the basis of the available evidence and thereafter the authority held the charged officer guilty of gross misconduct and passed an order of termination.

27. Under such factual background, the Hon'ble Supreme Court did not want to interfere against the order of punishment passed by the concerned employer against the delinquent employee.

28. In the instant case, on the contrary, no evidence was produced during inquiry to prove the charge of misconduct against the delinquent employee, even on the principle of preponderance of probability.

29. It is true that in *Nelson Motis v. Union of India* reported in *(1992) 4 SCC 711*, it was observed by the Hon'ble Supreme Court that the question whether the departmental proceeding could have continued in the face of



acquittal in criminal proceedings, had no force as “the nature and scope of a criminal case are very different from those of a department disciplinary proceeding and an order of acquittal, therefore, cannot conclude the departmental proceeding”.

30. In ***Karnataka Power Transmission Corpn. Ltd. v. C. Nagaraju***, reported in ***(2019) 10 SCC 367***, it was observed in paragraph no. 9 of the report as hereunder:-

“9. Acquittal by a criminal court would not debar an employer from exercising the power to conduct departmental proceedings in accordance with the rules and regulations. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. [Ajit Kumar Nag v. Indian Oil Corpn. Ltd., (2005) 7 SCC 764 : 2005 SCC (L&S) 1020] In the disciplinary proceedings, the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings, the question is



whether the offences registered against him under the PC Act are established, and if established, what sentence should be imposed upon him. The standard of proof, the mode of inquiry and the rules governing inquiry and trial in both the cases are significantly distinct and different.”

31. A close perusal of the principle, laid down by the Hon'ble Supreme Court, suggests that probity of a charge in a criminal case and a departmental proceeding depends on different parameters and different rules and regulations, while the cardinal axiom of criminal trial is that the charges are to be proved beyond any shadow of reasonable doubt, the departmental proceeding is governed by the respective classification, control and appeal rules, where departmental charge is required to be proved on preponderance of probability.

32. However, in both the cases, it is the duty of the prosecution and the disciplinary authority to produce evidence against the accused/delinquent employee and without production of evidence and giving opportunity to the delinquent employee to cross-examine the witnesses, a charge cannot be said to be proved.



33. In the instant case, the Inquiry Officer held the petitioner guilty on the basis of the charge memo where it was alleged that he was arrested by the Vigilance Investigation Bureau while taking bribe. No witness was examined to prove the said charge. The petitioner did not get any opportunity to controvert the same charge. On the contrary in criminal trial where the petitioner got the opportunity to controvert the allegation made out against him by the complainant, the charge of corruption against the delinquent employee fell flat and he was acquitted.

34. This Court is conscious that the order of acquittal does not exonerate the delinquent employee from departmental charges but when the order of acquittal is passed on the ground that the prosecution hopelessly failed to bring home the charge against the accused and on the identical charge, a departmental inquiry was conducted and he was held guilty and terminated from his service, the judgement and order of acquittal can be looked into as a piece of evidence on the principle of preponderance of probability.

35. In the instant case, coupled with the fact that the departmental charge was not proved by the employer



adducing satisfactory evidence and the order of acquittal in criminal trial on the similar and identical charge, can be accepted as a strong piece of evidence on the principle of preponderance of probability, this Court does not have any other alternative but to allow the instant writ petition.

36. Accordingly, the instant writ petition is allowed.

37. The order passed by the Respondent No. 4, *vide* Memo No. 152, dated 20th of March, 2015 and the order passed by the Respondent No. 3, *vide* Memo No. 6967, dated dated 3rd of October, 2024, are quashed and set aside.

38. The petitioner be reinstated in service, if not attains the age of superannuation, and all monetary benefits as well as consequential reliefs be granted to the petitioner within a period of three months from the date of communication/receipt of a copy of this order.

(Bibek Chaudhuri, J)

skm/-

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