

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1494 of 2017

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Suresh Kumar Son of late Tuni Prasad Singh Resident of Village- Jai Prakashpur, P.O. and P.S.- Noor Sarai, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Bihar, Patna.
3. The Principal Secretary, Revenue and Land Reforms Department, Bihar, Patna.
4. The Joint Director, Agriculture Ganana, Revenue and Land Reforms Department, Bihar, Patna.
5. The Divisional Commissioner, Patna Division, Patna.
6. The District Magistrate Cum Collector, Nalanda at Bihar Sarif.
7. The Circle Officer, Hilsa, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.N.P. Singh, Sr. Advocate
Mr. S.P. Singh, Advocate
Mr. Mukumd Kumar, Advocate

For the Respondent/s : Md. Faiz Ahmad, AC to GP- 14

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 29-01-2026

Heard learned counsel for the parties.

2. The petitioner has filed the instant application for the following reliefs:

“1. i) For quashing of the office order of the Principal Secretary, Revenue and Land Reforms Department, Bihar, Patna contained in memo no. 1131 dated 14.10.2016 (Annexure-10) issued under the



signature of the Joint Director, Agriculture Ganana, Revenue and Land Reforms Department, Bihar, Patna, whereby and where under the revision filed against the order dated 29.07.2015 (annexure-9) passed in Service Appeal Case No. 246/2014 by the respondent Divisional Commissioner, Patna Division, Patna challenging the dismissal order contained in Memo No. 292 dated 31.01.2014 (annexure-8) of the respondent Collector-cum-District Magistrate, Nalanda has been rejected.

ii) For quashing of the order dated 29.07.2015 (annexure-9) passed in Service Appeal Case No. 246/2014 by the respondent Divisional Commissioner, Patna Division, Patna whereby the the dismissal order contained in Memo No. 292 dated 31.01.2014 (annexure-8) of the Collector-cum-District Magistrate, Nalanda has been rejected.

iii) For quashing of the order contained in Memo No. 292 dated 31.01.2014 (annexure-8) of the Collector -cum-District Magistrate, Nalanda whereby and whereunder, the



petitioner has been dismissed from service under Rule-14(xi) of Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 and its amended Rules.

iv) For issuance of direction commanding the respondents to reinstate the petitioner in service from the date of dismissal with all the consequential benefits and back wages of the period from the date of dismissal to the date of reinstatement.

v) For any other relief or reliefs for which the petitioner is found entitled in the facts and circumstances of the case for the meet of justice.”

3. The case of the petitioner in brief is that while he was at the relevant time posted as revenue clerk in Circle Hilsa in the district of Nalanda, the petitioner was caught taking bribe in a trap case for which Vigilance P.S. Case no. 7 of 2012 (Special Case no. 9 of 2012) was registered and he was taken into custody. The petitioner was subsequently enlarged on bail.

4. An inquiry was started against the petitioner for which memo of charge in prapatra 'ka' (Annexure-2) was served on him with the charge that on 25.1.2012 the petitioner, a



Rajaswa Karamchari, was caught taking bribe of Rs.5,000/- and he was taken into custody by the Vigilance Investigation Bureau. He was sent in judicial custody to the Adarsh Jail, Beur, Patna.

5. The petitioner filed his reply to the charges and the inquiry proceeded. The Enquiry Report dated 29.8.2012 (Annexure-5) was submitted by the Conducting Officer, a copy of which was provided to the petitioner. The petitioner submitted his reply to the same.

6. The respondent authorities i.e. the District Magistrate, Nalanda came out with an order of punishment dated 31.1.2014 dismissing the petitioner from service. The appeal preferred by the petitioner was rejected by the Divisional Commissioner, Patna Division on 29.7.2015 and the revision filed by the petitioner was also rejected by the Principal Secretary, Revenue and Land Reforms Department, Bihar by his order dated 14.10.2016.

7. It is submitted by Mr. Shrinandan Prasad Singh, learned Senior counsel appearing for the petitioner that on perusal of the memo of charges in prapatra 'ka' brought on record as Annexure-2 to the writ application, it would transpire that while the allegation is of the petitioner being caught taking



bribe of Rs.5,000/- on 25.1.2012, however when the inquiry proceeded, from the contents of the inquiry report it would transpire that the inquiry proceedings dealt with three charges against the petitioner. It is further submitted that on perusal of the inquiry report, the so called informant of the criminal case who is said to have been examined, however neither any intimation was given to the petitioner of his examination nor was the petitioner given any opportunity to cross-examine him. Admittedly no document was either produced, marked exhibit or proved by any of the witness in course of inquiry. Thus placing reliance on the judgment in the case of **Roop Singh Negi vs. Punjab National Bank & Ors.; (2009) 2 SCC 570**, it is submitted that it is a case of no evidence.

8. Learned Senior counsel appearing for the petitioner further submitted that even the memo of charge neither mentions about the witnesses who are proposed to be examined to prove the charges against the petitioner nor does it mention about any of the documents that is sought to be relied upon in proving the charges. Referring to the statement made in paragraph no. 27, it is submitted that it has categorically been stated that neither the date of examination of the witnesses was fixed nor the petitioner was given any opportunity to cross-



examine the witnesses.

9. It is further submitted that the entire order sheet of the departmental proceeding has been brought on record as Annexure-12 to the writ application. Referring to the order dated 16.8.2012 of the Conducting Officer which mentions about the examination of the informant who is said to have come with evidence as also other witnesses namely Yogendra Kumar and Raja Babu, it is stated that therein also there is no mention of any cross-examination nor any of the witnesses having proved any document and the proceedings concluded on the same day.

10. In the above circumstances, learned Senior counsel appearing for the petitioner submits that the case against the petitioner being one of no evidence, the orders impugned are not sustainable, the same be set aside and the writ application be allowed with all consequential benefits.

11. In response, it is submitted by learned counsel appearing for the State of Bihar that the petitioner who was a *Rajaswa Karamchari* was caught red handed in a trap case taking bribe of Rs.5,000/- which lead to registration of Vigilance P.S. Case no. 7 of 2012 and the petitioner was taken into custody. It is submitted that there has been no procedural



irregularity in the conduct of the proceedings. So far as the examination of the witnesses is concerned, it is stated that the informant/complainant of the case namely Vijay Prasad appeared in the departmental proceeding along with the witnesses Yogendra Kumar and Raja Babu and made a categorical statement in the proceedings of the petitioner having taken bribe and being caught in the process.

12. Learned counsel further submits that the proof required in a departmental proceeding in a criminal case are distinct and different. While in a criminal case, the prosecution is required to prove the case beyond all reasonable doubts, so far as departmental proceeding is concerned, the charges are proved on the basis of preponderance of probability. It is thus submitted that the witness having been examined and having supported the charge against the petitioner, the Conducting Officer rightly held the third charge to have been proved and which lead to the authority passing the order of punishment against the petitioner. It is submitted that the petitioner has not made out a case for interference by this Court in the order of punishment. There is no merit in the instant writ application and the same be dismissed.

13. Heard learned counsel for the parties and perused



the material on record.

14. The relevant facts in brief are that the petitioner who was at the relevant time working as a *Rajaswa Karamchari* was caught taking bribe of Rs. 5,000/- and he was taken into custody by the Vigilance Investigation Bureau. An FIR was registered being Special Case no. 9 of 2012.

15. A departmental proceeding was started and by letter dated 2.4.2012, the petitioner was informed that the memo of charges in prapatra 'ka' was being sent to him. He was directed to submit his written defence along with the evidence by 16.4.2012 in the office of the Conducting Officer.

16. A perusal of the memo of charge in prapatra 'ka' enclosed with the letter would show that the charge was of the petitioner, a *Rajaswa Karamchari* being caught by the Vigilance Investigation Bureau on 25.1.2012 taking a bribe of Rs. 5,000/- and he being taken in judicial custody.

17. The petitioner was further served with another memo of charge mentioning three charges against him. The charges being:

(i) In Mutation Case no. 176/07-08 he had given a misleading report and had thus obtained the approval of the Circle Officer, Hilsa in the case for mutation.



(ii) He had illegally issued a receipt in favour of private individuals with respect to government land.

(iii) A raiding team of the Vigilance Investigation Bureau caught the petitioner taking bribe.

18. After conducting the enquiry, the Conducting Officer found charge nos. 1 and 2 not to have been proved, however in the opinion of the Enquiry Officer, charge no. 3 was proved. A copy of the enquiry report was served on the petitioner to which he filed his reply. It is thereafter that the respondents came out with the order of punishment dated 31.1.2014 under the signature of the District Magistrate, Nalanda imposing the punishment on the petitioner of dismissal from service. The appeal preferred by the petitioner was rejected by order dated 29.7.2015 of the Divisional Commissioner, Patna Division and the revision preferred against the said order was also rejected by order dated 14.10.2016 by the Joint Director, Agriculture Ganana, Revenue and Land Reforms Department (respondent no. 4).

19. It may be observed here that so far as proving the charges contained in the memo of charge against the petitioner are concerned, it transpires from perusal of the enquiry report that the complainant Vijay Prasad appeared on 16.8.2012 before



the Enquiry Officer along with the witnesses Yogendra Kumar and Raja Babu. However, perusal of the ordersheet of the proceedings for the said date brought on record as Annexure-12 to the writ application, it would transpire that they have not proved any document in course of their statement which may have formed the basis for proving the charges against the petitioner. The order states that they appeared, gave a written statement and thereafter the enquiry was closed.

20. The ordersheet of the departmental proceeding also does not show that any date was fixed for their appearance, any prior intimation had been given to the petitioner or the petitioner and/or his lawyer was given any opportunity to cross-examine the said witness.

21. Except for these three witnesses who were shown to have appeared on 16.8.2012 with some written statement and the enquiry was also closed on the same date, there is no other mention of appearance of any other witness.

22. At this stage, it would be relevant to note that in the memo of charge, the charge was sought to be proved on the basis of documentary evidence.

23. The Hon'ble Supreme Court in its judgment in the case of **Roop Singh Negi** (supra) held as follows:



“14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence.”

24. A Division Bench of this Court in the case of **Devendra Prasad vs. The State of Bihar and Ors.** (judgment dated 19.10.2023 passed in L.P.A. no. 1302 of 2017), following Roop Singh Negi (supra) observed as follows:

“7. As has been held in Roop



Singh Negi v. Punjab National Bank and others; (2009) 2 SCC 570, the documents produced in a departmental inquiry has to be proved by examining witnesses. Even an F.I.R. was held to be not evidence by itself without actual proof of facts stated therein. The Hon'ble Supreme Court had also held that even an admission or confession to the police itself is not sufficient to find the delinquent employee guilty in a departmental proceeding if no evidence is brought on record to prove the offence or misconduct alleged. Departmental inquiry was held to be a quasi-judicial proceeding and the Inquiry Officer functions in the status of a quasi-judicial authority. Not only should evidence be led in a departmental inquiry, the conclusions arrived at should be based on evidence which brings forth a probability that the delinquent has committed the misconduct alleged and charged against him. No Inquiry Report based on conjectures and surmises can be sustained and even in a departmental inquiry, the standard of proof is not a mere suspicion.



However high the degree of suspicion is, it cannot be a substitute for legal proof.”

25. Coming to the facts of the instant case, no opportunity having been given by the respondents to cross-examine the witnesses in the departmental enquiry on 16.8.2012 who appeared on a single date without any prior notice to the petitioner, the same was clearly a violation of the principles of natural justice. Further none of these three witnesses also having proved any document and contents thereof nor any document having been marked exhibit and proved by these or any other witness, it is a case of no evidence against the petitioner.

26. In view of the facts and circumstances stated hereinabove, the order of punishment dated 31.1.2014 passed by the District Magistrate, Nalanda, the order dated 29.7.2015 rejecting Service Appeal no. 246 of 2014 by the Divisional Commissioner, Patna Division, Patna and the order dated 14.10.2016 of the Joint Director, Agriculture Ganana, Revenue and Land Reforms Department, Government of Bihar rejecting the revision preferred by the petitioner are all unsustainable and are accordingly set aside.

27. The writ application is allowed along with consequential benefits.



28. The petitioner will be reinstated in service with effect from the date of dismissal i.e. 31.1.2014 and the entire arrears of salary, after deducting the suspension allowance paid to the petitioner, shall be paid to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

29. The writ application stands allowed.

(Partha Sarthy, J)

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| CAV DATE | NA |
| Uploading Date | 29.1.2026 |
| Transmission Date | NA |

