

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1430 of 2022

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Bipin Kumar Son of Sita Ram Singh, resident of Kazichak, P.O. Ramnathpur,
Via Sarmera, P.S. Sarmera, District-Nalanda, presently residing at Ram
Krishnanagar, west of Shivaji Chowk, Near V.V. Singh House, House No.
H/4, P.O. New Jaganpura, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of
Agriculture, Bihar.
2. The Secretary, Department of Agriculture, Bihar.
3. Then Director (Administration) cum Conducting Officer
4. The Deputy Secretary, Department of Agriculture, Bihar.
5. The Under Secretary, Department of Agriculture, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms. Surya Nilambari, Advocate

For the Respondent/s : Mr. Anant Kr. Singh (SC15)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

C.A.V. JUDGMENT

Date : 06-01-2026

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

2. The present writ petition has been filed for the
following relief/s :-

*a) For quashing the notification
dated 8.3.2021 issued under the signature of
the Secretary, Department of Agriculture,
Bihar whereby and whereunder the review
memorial preferred by the Petitioner
(District Planning and Evaluation Officer,
Darbhanga cum In charge Junior Plant*



Protection Officer, Dharbhanga) under the aegis of the order of the Hon'ble High Court, Patna dated 27.8.2018 in C.W.J.C No. 5278/2015 against the order of dismissal dated 6.11.2014, was rejected thereby confirming the said order of dismissal.

b) For quashing the notification dated 6.11.2014 issued under the signature of the Deputy Secretary, Department of Agriculture, Bihar whereby and whereunder the Petitioner was dismissed from service in view of the departmental proceedings conducted against him, in light of Rule 14 (xi) Bihar Government Servant Rules, (Classification, Control and Appeal) Rules, 2005.

c) For grant of consequential reliefs, as the petitioner retired from service on 31.01.2016.”

3. Learned counsel for the petitioner assails the impugned notifications dated 06.11.2014 and 08.03.2021 as being illegal, arbitrary, and violative of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as “Bihar CCA Rules, 2005”) as well as the principles of natural justice.

4. It is further submitted that the petitioner was



initially appointed as Junior Statistical Assistant in the year 1978 and, after completion of 30 years of service, was promoted to the post of District Planning and Evaluation Officer, Darbhanga under the District Agriculture Office. In the year 2010, he was also given additional charge of Junior Plant Protection Officer, Darbhanga. While functioning in the said capacity, a memo of charge dated 16.05.2011 was issued alleging that the petitioner was found present in Room No.104 of Arvind Hotel, Darbhanga, along with certain officials who were caught accepting bribe during a vigilance raid. Significantly, the charge did not allege that the petitioner himself demanded or accepted any bribe, nor was any bribe recovered from him. The allegation was founded merely on an inference of complicity arising out of his presence in the hotel room.

5. Learned counsel further submits that an FIR under the Prevention of Corruption Act was lodged against the petitioner, pursuant to which he was taken into custody and later released on bail. However, the departmental proceedings culminated in an enquiry report dated 11.01.2013, wherein the Enquiry Officer categorically hold that no bribe or money was recovered from the petitioner. The Enquiry Officer further noted



that the recovery of an official camera from the petitioner corroborated his explanation that he had gone to the hotel to apprise his superior officers of the implementation of official programmes. While some suspicion was expressed regarding booking of a hotel room on a holiday, the Enquiry Officer simultaneously observed that the petitioner appeared to have acted under instructions of his superior officers.

6. Learned counsel further submits that despite the aforesaid findings, which do not establish any misconduct on the part of the petitioner, the Enquiry Officer returned a vague and self-contradictory conclusion that the charge stood proved to the extent that the petitioner had allegedly assisted his superior officers in the act of bribery. This conclusion, it is urged, is wholly unsupported by evidence and travels beyond the charge framed against the petitioner, which never alleged facilitation or assistance in bribery.

7. Learned counsel emphatically submits that the departmental enquiry is vitiated as no oral or documentary evidence whatsoever was adduced by the department. No witnesses were examined, nor were any documents proved in accordance with law. The findings in the enquiry report are based merely on conjectures, opinions, and submissions of the



Presenting Officer, which cannot substitute legal evidence. Even under the standard of preponderance of probabilities applicable to departmental proceedings, some evidence is indispensable, which is completely absent in the present case.

8. Learned counsel further submits that the second show cause notice dated 19.03.2014 itself reflects a closed and biased mind, as the Disciplinary Authority recorded that the grave charges stood proved and that a major penalty had already been decided. Such a notice, according to learned counsel, defeats the very purpose of a second show cause and violates the doctrine of *audi alteram partem*. The petitioner submitted his reply dated 12.04.2014 within time, which was admittedly received by the department on 16.04.2014, yet the same was not considered on the specious ground of delay. Learned counsel points out that the impugned notification dated 06.11.2014 dismissing the petitioner from service is non-speaking, cryptic, and demonstrably perverse. The Disciplinary Authority proceeded on an erroneous assumption that the petitioner was caught red-handed accepting bribe, an allegation neither contained in the charge memo nor borne out from the enquiry report. The order further discloses non-application of mind, as even the opinion of the Bihar Public Service Commission was



not in favour of imposing the extreme penalty of dismissal.

9. It is further submitted that the appeal preferred by the petitioner was rejected on technical grounds, and thereafter, pursuant to the order dated 27.08.2018 passed by this Court in CWJC No. 5278 of 2015, the matter was remanded for review. The petitioner accordingly filed a detailed review memorial highlighting the fundamental defects in the enquiry and disciplinary proceedings. However, the same was rejected by the impugned notification dated 08.03.2021 in a perfunctory manner, without addressing the core issues raised by the petitioner. Learned counsel submits that the reviewing authority itself acknowledged that the proposal for dismissal had been approved at the highest level on 04.05.2014, i.e., prior to independent consideration of the petitioner's reply to the enquiry report. This, according to learned counsel, is a clear violation of Rule 18(4) of the Bihar CCA Rules, 2005, which mandates the Disciplinary Authority to independently consider the enquiry report and the delinquent's representation before imposing a major penalty. The decision to dismiss the petitioner was thus a foregone conclusion, rendering the entire exercise an empty formality.

10. Learned counsel further submits that the charge



itself is vague and does not constitute “misconduct” in law. Mere presence in the company of superior officers, without proof of wrongful intent or moral turpitude, cannot amount to misconduct warranting a major penalty. The petitioner was acting under instructions of his superiors, a fact acknowledged in the enquiry report itself.

11. Lastly, learned counsel for the petitioner submits that even assuming the allegations to be correct, the penalty of dismissal from service imposed upon a government servant with an unblemished career of over three decades is shockingly disproportionate. It is pointed out that one of the co-accused officers has retired and is receiving substantial retiral benefits, which further demonstrates arbitrariness and unequal treatment.

12. On the aforesaid grounds, learned counsel prays that the impugned notifications dated 06.11.2014 and 08.03.2021 be quashed and the petitioner be granted all consequential benefits.

13. In support of her argument, learned counsel for the petitioner relied on the judgment rendered in the case of ***Oryx Fisheries Private Limited vs. Union of India and Ors.*** reported in ***(2010) 13 SCC 427*** and submits that a show cause notice issued by a quasi-judicial proceeding under a statutory



regulation then, it promises to give the person/delinquent a reasonable opportunity of defence. Here in the present case, no such reasonable opportunity of defence has been provided to the petitioner. Counsel submits that it is the fundamental principle that the justice must not only be done, but it must eminently appear to be done and has applicability in quasi-judicial proceeding.

13.1 Learned counsel for the petitioner further relied on the judgment rendered in the case of *Laxmi Devi Sugar Mills Ltd. Vs. Nand Kishore Singh* reported in *AIR 1957 SC 7* and submitted that the charge memo did not enclose or refer to any supporting documents. It was further contended that the charges levelled against the petitioner were never proved, as the maker of the allegations was never examined, nor was any opportunity of cross-examination afforded to the petitioner. Learned counsel submitted that, in the absence of such substantive material and procedural safeguards, the Enquiry Officer could not have legally considered such materials or arrived at the conclusion that the petitioner was guilty of the charges levelled against him.

13.2 Counsel further relied on the judgment rendered in the case of *Brij Bihari Singh Vs. Bihar State Financial*



Corporation & Ors. reported in **(2015) 17 SCC 541** and submitted that it is well settled that a person who is required to answer a charge must know not only the accusation but also the evidence by which the accusation is sought to be supported. The delinquent employee must be afforded a fair opportunity to hear the evidence in support of the charge and to cross-examine the witnesses who depose in support thereof. Learned counsel submitted that, in the present case, not a single witness was examined in support of the charges, nor was any opportunity of cross-examination provided to the petitioner.

13.3 Learned counsel further relied on the judgment rendered in the case of **Dr. Janardan Prasad Sukumar Vs. The State of Bihar through the Chief Secretary & Ors.** reported in **2025 (1) PLJR 625** and submitted that a delinquent employee must be afforded a fair opportunity to hear the evidence adduced in support of the charges and to cross-examine the witnesses examined therein, failing which the principles of natural justice stand violated. Learned counsel submitted that, in the present case, neither was any witness examined in support of the charges nor was any opportunity of cross-examination afforded to the petitioner. It was further submitted that, in view of these facts and circumstances, the charge



memo, the punishment order, as well as the review order are liable to be quashed and set aside.

14. Learned counsel appearing for the State submits that the writ petition is devoid of merit and has been filed with an intent to reopen a concluded disciplinary proceeding. For proper appreciation of the matter, learned counsel has placed the relevant facts in a brief by submitting that the petitioner was initially appointed as Junior Statistical Assistant in the year 1978 and was subsequently promoted to the post of District Planning and Evaluation Officer, Darbhanga under the District Agriculture Office. In the year 2010, he was also entrusted with the additional charge of Junior Plant Protection Officer (JPPO), Darbhanga. While functioning as In-charge JPPO, the petitioner was served with a memo of charge dated 16.05.2011 issued by the Agriculture Department. Learned counsel submits that a bare perusal of the charge memo would demonstrate that the allegations levelled against the petitioner were serious in nature. A regular departmental enquiry was conducted in accordance with the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005. Upon completion of the enquiry, the Enquiry Officer submitted a detailed enquiry report wherein the charges levelled against the petitioner were found to be proved.



15. Learned counsel further submits that after due examination of the enquiry report and application of mind, the Deputy Secretary, Department of Agriculture, Bihar issued a second show cause notice vide Letter No. 82 dated 19.03.2014, calling upon the petitioner to submit his explanation within fifteen days. The petitioner submitted his reply dated 12.04.2014, seeking exoneration from the charges. Thereafter, vide Notification No. 411 dated 06.11.2014 issued under the signature of the Deputy Secretary, Agriculture Department, the petitioner was imposed with the punishment of dismissal from service after obtaining approval of the Cabinet. Learned counsel submits that the said notification records that the petitioner failed to submit his reply to the second show cause notice within the prescribed period. Subsequently, the proposal for punishment was forwarded to the Bihar Public Service Commission for concurrence; however, the Commission did not concur with the proposed punishment. Thereafter, an opinion was sought from the General Administration Department (GAD), which, with reference to Circular No. 2609 dated 13.09.2006 and Rule 21 of the Bihar CCA Rules, 2005, opined that the Administrative Department itself was competent to take a decision in the matter. In view of the said opinion, the



Department proceeded to impose a major penalty as prescribed under Rule 14(xi) of the Bihar CCA Rules, 2005, after obtaining approval of the Cabinet.

16. Learned counsel further submits that the petitioner earlier challenged the dismissal order by filing CWJC No. 5278 of 2015 and also preferred a review application under Rule 24(2) of the Bihar CCA Rules, 2005. The writ petition was disposed of by this Court vide order dated 27.08.2018, directing the competent authority to consider and decide the review application on its own merits. Pursuant to the aforesaid order of this Court, the petitioner's review application was duly considered. The petitioner was afforded adequate opportunity of hearing and appeared before the authority on 11.12.2018 and 08.01.2019, where he submitted his defence. Upon careful consideration of the entire material on record and after granting personal hearing to the petitioner, the review application was rejected by the Secretary, Agriculture Department, Bihar, vide Notification No. 129 dated 08.03.2021. Counsel further submits that two other officers, namely Manoj Kumar, Assistant Agriculture Director (Surveillance), Bihar, Patna, and Satya Narayan Mochi, Joint Director of Agriculture (Plant Protection), were also awarded against departmentally on



similar charges and were awarded punishment, thereby negating any allegation of discrimination. Counsel for the State further submits that the disciplinary proceedings against the petitioner were conducted in accordance with law, after following due procedure, and the punishment imposed does not call for interference under Article 226 of the Constitution of India. The writ petition, therefore, lacks merit and is liable to be dismissed.

17. After hearing the parties and upon perusal of the records, it transpires to this Court that the charge memo was issued to the petitioner. In the charge memo, it is contended that the petitioner was present along with the persons who were caught taking bribe. From the petitioner's possession, one mobile and Sony Camera was recovered. This shows the alleged involvement of petitioner in corruption due to his presence in the hotel room where the officials were nabbed taking bribe. For that, FIR has also been lodged bearing Town (Darbhanga) P.S. Case No.86 of 2011/Special Case No. 8 of 2011. The said criminal case is still pending. The petitioner was suspended and he was directed to file explanation. It also transpires that the said charges resulted into departmental proceeding, but in the enquiry, no witnesses were examined nor any document was produced by the Presenting Officer. The



finding of the enquiry report states that bribe money was not recovered from the petitioner. The recovery of official camera from the petitioner's possession demonstrates that he had intended to show the execution of the government programme to his superiors. Booking of a room on holiday by the petitioner raised suspicion against him and the trap memo indicates that the petitioner was present and caught from the room of the hotel. But, the Enquiry Officer on the basis of the above material proved the charge of alleged corruption of assisting the officials who had come from the headquarter in the act of bribery. Second show cause was issued to the petitioner and the Disciplinary Authority upon analysis of the enquiry report accepted the grave allegation of misconduct against the petitioner to have established for which a major penalty was decided to be imposed. In-spite of the fact that the petitioner submitted explanation and taken the plea that enquiry was conducted in complete violation of relevant rules and finding of the guilt was based on surmise and conjecture, without being substantiated by the evidence. The order of dismissal was passed on 06.11.2014.

18. It also transpires to this Court that upon the order of punishment, the petitioner filed writ petition namely,



C.W.J.C. No. 5278 of 2015 which was resulted into liberty to prefer review *vide* order dated 27.08.2018. The review petition was also dismissed on 08.03.2021. Then the petitioner preferred the present writ petition challenging both the orders i.e. the punishment order dated 06.11.2014 and order of reviewing authority dated 08.03.2021. The allegations made in the charge memo and the findings in the punishment order did not match. As in the charge memo, it is an allegation that the petitioner was present with other delinquents from whose possession money has been recovered. Presence with them in the hotel room shows the involvement of the petitioner in the present case. But in the finding of the Disciplinary Authority/punishment order, it has come that arresting has been made due to acceptance & recovery of the bribe by the trap team, which are at all not a correct finding. Because, the allegation in charge memo did not speak about recovery of money from petitioner, and enquiry report has categorically concluded that no recovery was made from the delinquent petitioner. The Disciplinary Authority has imposed punishment on the basis of other charge, the said charge shown in punishment order is lacking in the charge memo.

19. The another point on which this Court is surprised



that with a view to prove the allegation of charge, not a single witness has been examined, even the complainant has not been examined. The said finding of the Disciplinary Authority is contrary to the allegation of charge in the memo and in this way, there is a gross violation of Rule 19 of Bihar CCA Rules, 2005. In addition to that, in the enquiry, not a single witness has been examined nor any opportunity of cross examination has been provided. The said action has been made by the Disciplinary Authority which is in complete violation of one of the case decided by the Hon'ble Supreme Court of India in ***Roop Singh Negi Vs. Punjab National Bank & Ors.*** reported in ***(2009) 2 SCC 570***, wherein it has been held in paragraph nos. 14 to 16 which states 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.

15. We have noticed hereinbefore that the only basic evidence whereupon reliance has been placed by the enquiry officer was the purported confession made by the appellant before the police. According to the appellant, he was forced to sign on the said confession, as he was tortured in the police station. The appellant being an employee of the Bank, the said confession should have been proved. Some evidence should have been brought on record to show that he had indulged in stealing the bank draft book. Admittedly, there was no direct evidence. Even there was no indirect evidence. The tenor of the report demonstrates that the enquiry officer had made up his mind to find him guilty as otherwise he would not have proceeded on the basis that the offence was committed in such a manner that no evidence was left.

16. In Union of India v. H.C. Goel [AIR 1964 SC 364 : (1964) 4 SCR 718] it was held: (AIR pp. 369-70, paras 22-23)

“22. ... The two infirmities are separate and distinct though, conceivably, in some cases both may be present. There may be cases of no evidence even where the Government is acting bona fide; the



said infirmity may also exist where the Government is acting mala fide and in that case, the conclusion of the Government not supported by any evidence may be the result of mala fides but that does not mean that if it is proved that there is no evidence to support the conclusion of the Government, a writ of certiorari will not issue without further proof of mala fides. That is why we are not prepared to accept the learned Attorney General's argument that since no mala fides are alleged against the appellant in the present case, no writ of certiorari can be issued in favour of the respondent.

23. That takes us to the merits of the respondent's contention that the conclusion of the appellant that the third charge framed against the respondent had been proved, is based on no evidence. The learned Attorney General has stressed before us that in dealing with this question, we ought to bear in mind the fact that the appellant is acting with the determination to root out corruption, and so, if it is shown that the view taken by the appellant is a reasonably possible view this Court should not sit in appeal over that decision and seek to decide whether this Court would have taken the same view or not. This contention is no doubt absolutely sound. The only test which we can legitimately apply in dealing with this part of the respondent's case is, is there any evidence on which a finding can be made against the respondent that Charge 3 was proved



against him? In exercising its jurisdiction under Article 226 on such a plea, the High Court cannot consider the question about the sufficiency or adequacy of evidence in support of a particular conclusion. That is a matter which is within the competence of the authority which deals with the question; but the High Court can and must enquire whether there is any evidence at all in support of the impugned conclusion. In other words, if the whole of the evidence led in the enquiry is accepted as true, does the conclusion follow that the charge in question is proved against the respondent? This approach will avoid weighing the evidence. It will take the evidence as it stands and only examine whether on that evidence legally the impugned conclusion follows or not. Applying this test, we are inclined to hold that the respondent's grievance is well founded, because, in our opinion, the finding which is implicit in the appellant's order dismissing the respondent that Charge 3 is proved against him is based on no evidence."

20. It is surprising for this Court as to how the Disciplinary Authority reached on the conclusion that the petitioner was in possession of the money, whereas, the Enquiry Officer has categorically held that no recovery has been made from the petitioner's possession.

21. It transpires to this Court that there is gross



violation of principles of natural justice in the present case. The Disciplinary Authority is agreed on the findings of the enquiry report. But, the reasoning assigned by him is wrong and against the observation of the Enquiry Officer. The said allegation has been accepted by the Disciplinary Authority, which is in gross violation of Rule 19 of the Bihar CCA Rules, 2005. As, Rule 19 of the Bihar CCA Rules, 2005 is very much clear that once the Disciplinary Authority decides to hold an enquiry in the manner laid down in sub-rules (3) to (23) of Rule 17, then he has to follow the procedure of Disciplinary Authority strictly in accordance with Rule 17 and not according to Rule 19 of the Bihar CCA Rules, 2005.

22. The judgment on which the counsel for the petitioner relied i.e. in the case of ***Oryx Fisheries Private Limited (supra)***, is applicable up to the extent that in a quasi-judicial proceeding under statutory regulation, the delinquent has to be provided a reasonable opportunity of defence. Another judgment on which the counsel for the petitioner relied i.e. ***Laxmi Devi Sugar Mills Ltd. (supra)***, this judgment shall not apply in the present case due to the reason that this case has been dealt with the Industrial Employment (Standing Orders) Act (1946) and it has no application in the present case.



Another judgment on which the counsel for the petitioner relied i.e. in the case of ***Brij Bihari Singh (supra)***, this judgment is applicable in the present case due to the reason mentioned in paragraph no.9 of the said judgment which is quoted herein below:-

“It is well settled that a person who is required to answer a charge imposed should know not only the accusation but also the testimony by which the accusation is supported. The delinquent must be given fair chance to hear the evidence in support of the charge and to cross-examine the witnesses who prove the charge. The delinquent must also be given a chance to rebut the evidence led against him. A departure from this requirement violates the principles of natural justice. Furthermore, the materials brought on record pointing out the guilt are required to be proved. If the enquiry report is based on merely ipse dixit and also conjecture and surmises, it cannot be sustained in law.”

23. The judgment of ***Dr. Janardan Prasad Sukumar (supra)*** is also applicable in the present case, as the disciplinary proceeding was attended with *mala fide* action of the Disciplinary Authority reeks of a design to somehow inflict punishment of dismissal upon the petitioner where the violation



of natural justice has been made and the present petitioner has been victimized, in-spite of the fact that no recovery of money has been made from his possession.

24. This Court on the point of the respondent's plea that two other persons have been proceeded in criminal case as well as departmental proceeding and the said two persons were punished, in this regard, it is replied in the rejoinder that one of the delinquent was given punishment of removal from the service and another was punished with the punishment of 10% deduction in the pension and from those two persons, the recovery of money has taken place. But from the possession of the petitioner, no money was recovered. In the opinion of the Court, the violation of principles of natural justice has been made. Therefore, the case of two delinquents shall not apply in the present case due to the reasons mentioned above.

25. This Court, therefore, set aside the findings of the enquiry report dated 11.01.2013 (Annexure-2), order passed by the Deputy Secretary, Department of Agriculture, Bihar contained in Memo No. 411 dated 06.11.2014 (Annexure-5) as well as order passed by the Secretary, Department of Agriculture, Bihar contained in Memo No. 129 dated 08.03.2021 (Annexure-8). The respondent authorities are



directed to take a decision on the issue of the petitioner's entitlement to payment/dues arising out of the setting aside of the order of punishment, within three months from the date of production of a receipt/copy of this order.

26. Accordingly, with the aforesaid observation and direction, the present writ petition stands allowed.

27. Interlocutory application, if any, also stands disposed of.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	17/12/2025
Uploading Date	07/01/2026
Transmission Date	

