

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16745 of 2021

=====

Ravi Ranjan Kumar Gupta, S/o Nathuni Parsad, R/o Village-Fatehpur, P.S.-
Jogapatti, District-West Champaran, Bihar, at Present posted as the Sub
Divisional Public Grievance Redressal Officer, Barh, Patna, Bihar.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Deputy Secretary, General Administration Department, Government of Bihar, Patna.
4. The Commissioner, Darbhanga Division, Bihar.
5. The District Magistrate, Darbhanga, Bihar.
6. The Under Secretary, General Administration Department, Government of Bihar, Patna.

... .. Respondents

=====

Appearance :

For the Petitioner/s	:	Mr. Mrigank Mauli, Senior Advocate Mr. Rakesh Kumar Singh, Advocate Mr. Sanket, Advocate
For the State	:	Mr. Manoj Kumar, AC to GP-4

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

Date : 03-03-2025

This Court has heard Mr. Mrigank Mauli, learned Senior Advocate with Mr. Rakesh Kumar Singh, learned Advocate for the petitioner, and Mr. Manoj Kumar, learned Advocate for the State.

2. The petitioner is aggrieved with the order dated 03.07.2017 as contained in Memo No. 8003 dated 04.07.2017 issued under the signature of the Under Secretary, General Administrative Department, Government of Bihar, Patna,



(respondent no.6), whereby the petitioner has been inflicted with the punishment of censure for the year 2012-13 and withholding of one increment of pay without cumulative effect. The petitioner also sought quashing of the order dated 09.07.2021 issued by the respondent no.6, by which the review preferred by him in terms of Rule 24(2) of the Bihar Government Servants (Classification, Control and Appeal Rules), 2005 (for brevity 'the Rules, 2005') came to be rejected.

3. The brief facts, which led to the filing of the present writ petition, are that the petitioner joined the Bihar Administrative Service long back in the year 2000. While the petitioner was posted as Deputy Collector Land Reforms (DCLR), Sadar, Darbhanga, the District Magistrate, Darbhanga through his Memo No. 643 dated 26.02.2013 issued a public notice for "Settlement of Sairats" for the financial year 2013-14 at district, sub-division and block level within the district of Darbhanga. The aforesaid settlement was to be done through open tender on 12.03.2013, 19.03.2013 and 25.03.2013. The petitioner being the DCLR, Sadar Darbhanga, was also directed with other officials to ensure that the settlement of Sairats must be done in the blocks falling under his jurisdiction on stipulated dates; direction was also issued to publicize this event at mass



level. Altogether, 65 Sairats situated under three sub-divisions of Darbhanga district, namely, Darbhanga Sadar, Biraul and Benipur were directed to be settled. The petitioner was to ensure the settlement of 24 Sairats falling under the Darbhanga Sadar. In consequence to the directives as contained in Memo No. 643 dated 26.02.2013, total 12 Sairats were settled by the petitioner, out of which 5 Sairats were having minimum fixed value of more than Rs.50,000/-. Subsequent to the settlement in the month of July, 2013, the petitioner was transferred to Kahalgaon, Bhagalpur.

4. In the meantime, based upon the Letter no. 1444 dated 28.12.2013 issued by the Commissioner, Darbhanga Division, addressed to the Principal Secretary, General Administrative Department, Government of Bihar, Patna, showing alleged illegality in the settlement of Gausha Ghat Mela Sairat, a show-cause notice as contained in Letter no. 2323 dated 18.02.2014 was served upon the petitioner by which he was directed to submit his explanation. Pursuant thereto, the petitioner submitted his reply with a categorical averment that no illegality has been committed in the settlement of Sairats in question. The explanation of the petitioner did not find favour and vide Letter no. 6749 dated 12.05.2016, the petitioner was



served with 'Prapatra K' along with other documents. In response to the notice containing "Prapatra K", the petitioner submitted his detailed reply on 30.05.2016 rebutted the allegation, *inter alia*, that the charges levelled against him are unfounded, based upon wholly incorrect facts. However, the explanation/reply of the petitioner did not persuade the disciplinary authority and finally the impugned order of punishment came to be passed on 03.07.2017. Against the order of punishment dated 03.07.2017 (Annexure-1), the petitioner preferred review application on 19.03.2021 in terms of the provisions of Rule 24(2) of the Rules, 2005. However, it came to be rejected being barred by limitation.

5. Mr. Mrigank Mauli, learned Senior Advocate for the petitioner, assailing the impugned order has taken this Court through relevant documents and firstly drawn the attention of this Court to Memo No. 643 dated 26.02.2013 issued by the District Magistrate, Darbhanga, through which "Settlement of Sairats" was directed to be settled in three sub-divisions of the district of Darbhanga. Referring thereto, it is contended that there was a direction to the District Public Relation Officer, Darbhanga to get the publication of public notice in two daily Hindi news papers done for settlement of Sairats. Further, the DCLR



was directed to ensure that the settlement of Sairats must be done on the stipulated dates and, for the said purpose, wide publication was also to be done. The petitioner being the DCLR, Darbhanga was only concerned with the settlement of 24 Sairats falling under the sub-division of Darbhanga Sadar. Out of 24 Sairats, 16 Sairats were having minimum fixed value of Rs. 50,000/-. Before the settlement, in pursuant to the Memo No. 643 dated 26.02.2013, the petitioner issued Letter no. 407 dated 01.03.2013 informing all the Circle Officers of different Circles of Darbhanga Sadar to widely publicize about the scheduled programme for settlement of Sairats. The petitioner also got the public notice, as contained in Memo No. 643, displayed at the notice board of his office. On the scheduled date of 12.03.2013, 7 Sairats were settled through open tender, out of which 3 Sairats were having minimum fixed value of above Rs.50,000/-. Further on 19.03.2013, a total number of 5 Sairats were having the minimum reserved value of about Rs. 50,000/-. On the fixed day on 25.03.2013, no bidder turned up, so none of the Sairats could be settled. Thus, the total 12 Sairats were settled by the petitioner, out of which, 5 Sairats were having the minimum fixed value of more than Rs.50,000/-.

6. Adverting the aforesaid facts, learned Senior



Advocate for the petitioner has further drawn the attention of this Court to the Letter no. 1444 dated 28.12.2013 issued by the Commissioner, Darbhanga Division to the Principal Secretary, General Administrative Department, through which it has been informed, *inter alia*, that the settlement of altogether 20 Sairats having the minimum reserved value of above Rs.50,000/- took place through open bid without publication of the general notice in the two daily Hindi news papers, contrary to the guidelines and the letters issued by the department, which led to the institution of **C.W.J.C. No. 14491 of 2013 [Uma Dhar Yadav v. The State of Bihar and Others]**, questioning the legality of the settlement before the Hon'ble Court. This letter led to issuance of show-cause notice to the petitioner which was elaborately responded, referring to the letter contained in Memo No. 643 dated 26.02.2013 that for publication of the general notice in two daily Hindi news papers, the direction and responsibility was fastened with the District Public Relation Officer, Darbhanga and the petitioner was only directed to ensure publicizing about the scheduled programme for settlement of Sairats, which was duly ensured by the petitioner. Moreover, information with respect to the settlement which took place on 12.03.2013 and 19.03.2013 was duly forwarded to the



District Magistrate on the date of settlement itself in compliance with the Memo No. 643 dated 26.02.2013. Notwithstanding the detailed explanation clarifying the entire position; the petitioner was served with the “Prapatra K’ for holding of major departmental enquiry along with such documents by which the articles of charges are proposed to be sustained. Bare perusal of the “Prapatra K” dated 11.05.2016, the imputation levelled against the petitioner, *prima facie*, based upon an incorrect factual facts that the petitioner being the DCLR, Darbhanga has settled 16 Sairats, exceeding his jurisdiction having the minimum reserved value of more than Rs.50,000/- without publicizing the notice for settlement in two daily Hindi news papers.

7. Learned Senior Advocate for the petitioner, with reference to the aforesaid facts, has contended that the petitioner had not settled 16 Sairats for the financial year 2013-14, which had minimum reserved value for more than Rs.50,000/- and thus the acts which were not even attributable to the petitioner have made part of the “Prapatra K’. The aforesaid facts brought to the knowledge of the disciplinary authority and a detailed explanation with reference to the Memo No. 643 dated 26.02.2013 vis-a-vis the responsibility of the petitioner in



causing the settlement of Sairats, nonetheless, the impugned order came to be passed without any enquiry, much less required under Rules, 2005, especially incorporated under Rule 17 thereof. It is urged that none of the mandatory prescriptions as prescribed for major departmental enquiry under Rule 17 of the Rules, 2005 was followed. The impugned order came to be passed without appointing the Enquiry Officer and without any enquiry. Neither there is any Presenting Officer nor even the petitioner has been accorded the opportunity of personal hearing. Without producing the oral and documentary evidence by the Presenting Officer on behalf of the Government to prove the charges against the petitioner, the charges allegedly held to be proved; there is no examination of any witness, all the more, Letter no. 70 dated 01.03.2013 and Letter no. 2671 dated 02.12.2013, which have been obtained by the petitioner under the Right to Information Act, 2005 (for short 'the Act, 2005') revealed that the publication of notice in two daily newspapers could not be done due to the fault on the part of the office of the Director Information and Public Relations Department, Government of Bihar. Learned Senior Advocate, strenuously argued that while issuing the impugned order, the respondents have not adhered to the mandatory provisions of Rule, 18(5) of



the Rules, 2005 and once the departmental proceeding was initiated under Rule 17 of the Rules, 2005 for imposing major punishment, the respondent authorities cannot be allowed to render a complete go by to the mandatory prescriptions as provided under Rule 17 of the Rules, 2005; even though, later on, minor punishment has been inflicted upon the petitioner. It is lastly contended that the impugned order is not sustainable in the eyes of law as it suffers from manifest non-consideration of the issues raised by the petitioner, apart from the same being cryptic, no reason has been assigned. The impugned order passed by the reviewing authority whereby the review application filed by the petitioner is held to be time barred; it has castigating effect, inasmuch as the petitioner has not been given promotion against the post of Deputy Secretary whereas the persons junior to him, have already been given promotion to the post of Deputy Secretary, apart from not extending the 1st and 2nd MACP with effect from the date from which the petitioner was otherwise eligible. Hence, the reviewing authority ought to consider the review application on merit(s). To support the aforesaid contentions, reliance has also been placed on the various decisions of this Court rendered by the learned Division Bench of this Court in the cases of **Ashok**



Kumar Singh v. The State of Bihar and Others [L.P.A. No. 861 of 2019], Manoranjan Singh v. The State of Bihar and Others [L.P.A. No. 706 of 2019] and Satyendra Kumar v. The State of Bihar and Others [L.P.A. No. 1326 of 2019].

8. Mr. Manoj Kumar, learned Advocate for the State, dispelling the afore-noted contentions has vehemently opposed the writ petition on account of the delay and laches on the part of the petitioner. It is contended that the impugned order of punishment was passed way back on 03.07.2017 but the review application under Rule 24(2) of the Rules, 2005 came to be preferred almost about four years. In fact, the review application was nothing but a move to get the delay condoned and to move this Court; moreover the law does not permit a belated resort to the extraordinary remedy. Delay or laches is one of the factors, which may lead to refusal to invoke the extraordinary powers of the High Court, if the delay has not been explained properly. Reliance has also been placed on the judgments of the Hon'ble Supreme Court as well as of this Court in the cases of **P. Sadasivaswamy v. State of Tamil Nadu [(1975) 1 SCC 152]** **State of Jammu and Kashmir v. R.K. Zalpuri and Others [(2015) (4) PLJR (SC) 480]**, **Surajdeo Lal v. State of Bihar [(2015) (2) PLJR 793]** and **Nageshwar Singh v. Union of India**



[2015(4) PLJR 935].

9. Referring to the averments made in the counter affidavit, learned Advocate for the State further contended that settlement of Sairats of minimum reserved value of more than Rs. 50,000/- was to be done only after publication of notice in two daily Hindi newspapers in terms with the provisions laid down in the Government letter issued time to time by the Revenue and Land Reforms Department. Despite knowing the aforesaid facts, the settlement of Sairats, as admitted by the petitioner which have minimum reserved value of more than Rs.50,000/- clearly proves the charges levelled against the petitioner. Moreover, the impugned punishment is minor in nature and thus the statutory prescriptions as provided under Rule 17 of the Rules, 2005 is/are not applicable. The petitioner has been offered ample opportunity and all his explanations/replies were duly considered before inflicting the punishment.

10. Before coming to the merit(s) of this case, it would be apt and proper to deal with the preliminary objection raised by the learned Advocate for the State in respect to the delay and laches on the part of the petitioner in approaching this Court.



11. The issue regarding delay and laches had immense significance and if the Court while exercising the extraordinary writ jurisdiction finds that the claims raised are stale in nature and the delay is unexplained on the part of the litigant, it deserve to be thrown overboard at the very threshold, is the settled legal position.

12. In the case of **City and Industrial Development Corporation v. Dosu Aardeshir Bhiwandiwalla and Others [(2009) 1 SCC 168]**, the Apex Court has cautioned that while dealing upon the jurisdiction under Article 226 of the Constitution, is duty bound to consider whether “(a) adjudication of writ petition involves in complex of disputed question of fact and whether they can be satisfactorily resolved; (b) the petition reveals of materials facts;(c) the petitioner has any alternative or effective remedy for the resolution of the dispute; (d) person invoking the jurisdiction is guilty of unexplained delay and laches;(e) ex facie barred by any laws of limitation; (f) grant of relief is against public policy or barred by any valid law; and host of other factors.”

13. Delay or laches is one of the factors which is borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution and



if there is such negligence or omission on the part of the applicant to assert his right has taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. The High Court may refuse to invoke its extraordinary power in an appropriate case, is the observation of the Hon'ble Supreme Court in the case of **Karnataka Power Corporation Limited through its Chairman and Managing Director and Another v. K. Thangappan and Another [(2006) 4 SCC 322]**.

14. As a Constitutional Court, it has a duty to protect the rights of the citizen but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the Court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity [vide **Chennai Metropolitan Water Supply and Sewerage Board and Others v. T.T. Murli Babu (2014) 4 SCC 108]**.

15. The Hon'ble Supreme Court in the case of **Union of India and Others v. Tarsem Singh [(2008) 8 SCC 648]**, while discussing the issue of delay and laches as summarized that service matters claimed, normally are rejected either on



limitation where limitation period is prescribed or on the ground of delay/laches where there is no limitation. However, an exception to this principle enunciated that the cases of continuing wrong which can be entertained despite delay with a clear caution that this exception does not apply where interest of third party, as in the case of seniority or promotion are affected. The Hon'ble court made it clear that where the service related claim is based on for wrong continuing, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury.

16. In the case of **Tukaram Kana Joshi and Others v. Maharashtra Industrial Development Corporation and Others [(2013) 1 SCC 353]**, the Hon'ble Supreme Court has ruled that "delay and laches is adopted as a mode of discretion to decline exercise of jurisdiction to grant relief. The Court is required to exercise judicial discretion. The said discretion is dependent on facts and circumstances of the cases. Delay and laches is one of the facets to deny exercise of discretion. It is not an absolute impediment. There can be mitigating factors, continuity of cause of action, etc. That apart, if whole thing shocks the judicial conscience, then the Court should exercise



the discretion more so, when no third party interest is involved. Thus analysed, the petition is not hit by the doctrine of delay and laches as the same is not a constitutional limitation, the cause of action is continuous and further the situation certainly shocks judicial conscience”. And again:- No hard and fast rule can be laid down as to when the High Court should refuse to exercise its jurisdiction in favour of a party who moves it after considerable delay and is otherwise guilty of laches. Discretion must be exercised judiciously and reasonably. *In the event that the claim made by the applicant is legally sustainable, delay should be condoned. In other words, where circumstances justifying the conduct exist, the illegality which is manifest, cannot be sustained on the sole ground of laches. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have a vested right in the injustice being done, because of a non-deliberate delay. The court should not harm innocent parties if their rights have in fact emerged, by delay on the part of the Petitioners.”*

17. Having carefully gone through the afore-noted rulings, there is no difficulty to summarize that if any wrong gives a continuing source of injury; rendering cause of action in continuity



and there are mitigating circumstances, shocking the judicial conscience; more so, when no third party right is created during the interregnum period, there is no impediment to exercise the discretion judiciously and reasonable; keeping in mind the doctrine of delay and laches cannot put any fetter to the power envisaged under Article 226 of the Constitution of India.

18. Now coming to the case in hand, indisputably, the impugned order came to be passed way back on 04.07.2017 and the petitioner did not assail the same till the punishment affected the right of the petitioner in getting the benefit of 1st and 2nd MACP as well as promotion to the post of Deputy Secretary. Though this Court is of the view that there is admitted delay and laches on the part of the petitioner but considering the cascading effect on his promotional avenues and extending the benefit of 1st and 2nd MACP with effect from the date from which the petitioner is otherwise eligible, which has certainly a continuing source of injury qua the impugned order, which is manifestly illegal and *non est* in the eyes of law, this Court finds it a fit case to exercise its prerogative writ jurisdiction for the ends of justice.

19. From the materials available on record, it clearly reveal that the memo of charge was completely based upon



incorrect facts, alleging settlement of 16 Sairats, which do not have the minimum reserved value of more than Rs. 50,000/-, out of 65 Sairats for the financial year 2013-14; although the petitioner being DCLR, Darbhanga Sadar was concerned with only 12 Sairats, which were settled by him on 12.03.2013 and 19.03.2013 and out of which only 5 Sairats were having the minimum fixed value of more than Rs. 50,000/-. Based upon such incorrect charges, which was duly refuted by the petitioner in his show-cause reply, the finding of the disciplinary authority in no circumstances, sustained in law as well as on facts. Memo No. 643 dated 26.02.2013, which is made the very basis to prove the charges easily demonstrates that publication of general notice in two daily Hindi newspapers was attributed to the District Public Relation Officer, Darbhanga. All the DCLR of different sub-divisions of the district of Darbhanga were specifically directed to ensure settlement of Sairats on the date fixed by the District Magistrate, Darbhanga and for the said purpose, wider publication was to be done. This fact has also been corroborated by the letters as contained in Annexure-13 series obtained under the Act, 2005 to the effect that notice could not be published in the daily newspapers by the Department of Information and Public Relation, due to



procedural delay.

20. Once, a departmental proceeding is initiated with the issuance of the memo of charge, which clearly talks about ‘major enquiry’, hence, even for the purposes of inflicting minor punishment, Rule 18 of the Rules, 2005 cannot be given a go by.

21. It would be worth benefiting to quote Rule 18 of the Rules, 2005 hereunder:-

“18. Action on the inquiry report-

(1) The disciplinary authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, may remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 17 as far as may be.

(2) The disciplinary authority, after receipt of the enquiry report as per rule 17 (23) (ii) or as per sub-rule (1), shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own finding on such charge, if the evidences on record is sufficient for the purpose.

(3) The disciplinary authority shall forward or cause to be forwarded a copy of the inquiry report, together with its own findings, if any, as provided in sub-rule (2), to the government servant who may submit, if he or she so desires, his or her



written representation or submission to the disciplinary authority within fifteen days.

(4) The disciplinary authority shall consider the representation or submission, if any, submitted by the government servant before proceeding further in the manner specified in sub rules (5) and (6).

[underline supplied]

(5) If the disciplinary authority having regard to its findings on all or any of the articles of charge, is of the opinion that any of the penalties specified in clauses (i) to (v) of rule 14 should be imposed on the government servant, it shall, notwithstanding anything contained in rule-19, make an order imposing such penalty.

(6) If the disciplinary authority, having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry is of the opinion that any of the penalties specified in [clauses (vi) to (xi) of Rule 14] should be imposed on the Government servant, it shall make an order imposing such penalty and it shall not be necessary to give the government servant any opportunity of making representation on the penalty proposed to be imposed:

(7) Notwithstanding anything contained in sub-rule (5) and (6), in every case where it is necessary to consult the Commission, the Commission shall be consulted and its advice shall be taken into consideration before making any



order imposing any penalty on the Government servant.”

22. Once the procedure for imposing major penalty, as is writ large from the memo of charge, was initiated against the petitioner then it was incumbent upon the disciplinary authorities to adhere with the statutory prescriptions as provided under Rule 17 of the Rules, 2005. Only after the submission of the enquiry report by the Conducting Officer, if the disciplinary authority is of the opinion that any of the penalties specified in Clause 1 to 5 of Rule, 14 of the Rules, 2005 should be imposed on the Government servant, it shall, notwithstanding anything contained in Rule 19, make an order of such penalty.

23. This Court finds that in response to the memo of charge, the petitioner submitted his detailed explanation, upon which comments were asked for by the Divisional Commissioner and based upon his comments, the impugned order of punishment came to be passed. Thus, there is no hesitation to hold that the order of punishment has been inflicted without application of independent mind.

24. Coming to the impugned order, this Court also finds that there is no discussion to any of the defence and the grounds taken by the petitioner as to why the same are not acceptable to the disciplinary authority. It only speaks that the



department has found that the settlement of Sairats took place without publication of the notice in the two daily Hindi newspapers and thus the petitioner has been found guilty for the same.

25. Time without number, the Courts have observed that it is an implied principle of law that any order having civil consequences should be passed only after following principles of natural justice.

26. The learned Division Bench of this Court in the case of **Kems Services Private Limited through its Managing Director Mr. Mohan Kumar Khandelwal v. State of Bihar and Others [2014(1) PLJR 622]**, held that the “*final order must display complete application of mind to the grounds mentioned in the show-cause notice, the defence taken in reply, followed by at least a brief analysis of the defence supported by reasons while it was not acceptable. To hold that the cause shown can be cursorily rejected in one line by saying that it was not satisfactory or acceptable in our opinion shall be vesting completely arbitrary and canalize powers in the authority. In a given situation, if the authority concerned finds the cause shown to be difficult to deal and reject, it shall be very convenient for him not to discuss the matter and reject it by simply stating that*



it was not acceptable. Reasons have been held to be the hurt and sould of an order giving insight to the mind of the maker of the order, and that he considered all relevant aspect and eschewed irrelevant aspects.”

27. The significance of assigning reasons by quasi judicial authority has been elaborately summarized by the Apex Court in the case of **Kranti Associates and Another v. Masood Ahmad Khan and Others [(2010) 9 SCC 496]** mandating a quasi judicial authority must record reasons in support of its conclusions.

28. For imposition of even minor penalty with reference to certain alleged allegations and if they are disputed, the concerned authority was required to initiate departmental inquiry after giving due opportunity to the aggrieved persons. The materials, available, on record clearly reveal that there is no iota of reference to holding of an inquiry, furnishing of inquiring officer's report, show cause notice, reply to the show cause notice. In an identical situation, the learned Division Bench of this Court in the case of **Manoranjan Singh** (supra), has held that *assuming that regular departmental inquiry has not been initiated with a view of imposing minor penalty, while issuing show cause notice and seeking appellant's reply. Even in*



such circumstances, formalities are required to be followed by the disciplinary authority insofar as issuing show cause notice and receipt of aggrieved persons' reply/explanation. The contention raised by the aggrieved persons must be reflected in the order after due analyzing each of the contention.

29. The learned Division Bench of this Court in the case of **Satyendra Kumar** (supra), has also observed that the impugned order(s) inflicting even minor punishment must reflect reference to the reply filed on behalf of the delinquent failing which the impugned order(s) shall be vulnerable to interfere on account of non application of mind.

30. To summarize, it would be relevant herein that a disciplinary authority is under obligation to provide consideration of the entire circumstances of the case in order to decide the nature and extent of penalty to be imposed. The delinquent is entitled to the consideration of the show-cause by the Disciplinary Authority and the application of mind of said authority is imperative, before imposing any punishment. Thus, where no reason is assigned as to why the reply is found unsatisfactory and punishment is imposed thereupon, it only becomes apparent that there has been no application of mind by the authority for giving of reasons in support of an order, which



affects a person’s basic need of the principles of natural justice
[vide **The State of Bihar and Others v. Arun Kumar and Another (L.P.A. No. 837 of 2023)**].

31. In view of the discussions made hereinabove as also the settled legal position, this Court finds the impugned order dated 03.07.2017 as contained in Memo No. 8003 dated 04.07.2017 is unsustainable in law and thus it is hereby set aside. On account of setting aside of the original order of punishment, the subsequent order dated 09.07.2021 passed by the reviewing authority, rejecting the review application of the petitioner on the point of limitation, is also set aside.

32. The writ petition stands allowed.

33. Pending application, if any, shall also stands disposed off.

34. There shall be no order as to cost(s).

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06-03-2025
Transmission Date	

