IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17121 of 2013

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1.1. Jayanti Sinha Wife of Late Anugrah narayan Sinha, Resident of Zulu Park, Hazaribag, P.O. - Hazaribagh, P.S. - Hazaribag, Jharkhand.

1.2. Sanjay Sinha Son of Late Anugrah Narayan Sinha, Resident of Zulu Park, Hazaribag, P.O. - Hazaribagh, P.S. - Hazaribag, Jharkhand

1.3. Rajeev Sinha Son of Late Anugrah Narayan Sinha, Resident of Zulu Park, Hazaribag, P.O. - Hazaribagh, P.S. - Hazaribag, Jharkhand

1.4. Seema Hazari Daughter of Late Anugrah Narayan Sinha, Resident of Faridabad, P.O. Faridabad, P.S. - Gurgaon, District- Gurgaon Haryana.

1.5. Sapna Sachdeva Daughter of Late Anugrah Narayan Sinha, W/o Raghubir Singh, Resident of Dada Ji Wheels, Ashok Rajpath, Opposite Patna College, Patna - 800004.

1.6. Anita Baijal Daughter of Late Anugrah Narayan Sinha, Resident of New Delhi, P.O. - New Delhi, P.S. - New Delhi, District- New Delhi.

1.7. Sunita Bajaj Daughter of Late Anugrah Narayan Sinha, Resident of Rajnagar Ext Gaziabad, P.O. - Gaziabad, P.S. Gaziabad, District- Gaziabad, U.P.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. Deputy Secretary Department Of Environment In Forest Government Of Bihar, Patna.
3. The Principal Chief Conservator Of Forest, Bihar, Patna.
4. The Account General, Veer Chand Patel, Marg, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dhananjay Kashyap, Advocate
		Mr. Nagadeo Choubey, Advocate
For the State	:	Mrs. Binita Singh, S.C.-28
		Mr. Vivek Anand Amritesh, A.C. to S.C.-28
For the A.G.	:	Mr. Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT
Date : 15-06-2026

Heard the learned counsel for the parties.

Re: I.A. No.2 of 2026

2. The present interlocutory application has been

filed for recall/modification of direction contained in order dated 20.04.2026, insofar as it relates to imposition of cost of Rs.5,000/- to be deposited before the Patna High Court Legal Services Committee, if the counter affidavit will not be filed within the period prescribed in the order dated 20.04.2026.

3. For the reasons mentioned in the interlocutory application, I.A. No.2 of 2026 is allowed.

C.W.J.C. No.17121 of 2013

4. The present writ petition has been filed for the following reliefs:

> "i) For issuance of a writ in the nature of writ of certiorari or any other appropriate writ, order or direction, quashing the order bearing memo no. 1539 dated 18.06.2010 issued under the signature of the Principal Secretary Department of Environment and Forest, Government of Bihar whereby the pension of the petitioner has been reduced by 20%.
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> ii) For the issuance of the writ in the nature of the writ of mandamus or any other appropriate writ, order or direction, commanding the respondent authorities to grant 100% pension to the petitioner with arrears of pension payable to him.
>
> iii) For any other relief"

FACTS OF THE CASE

5. The brief facts, which are necessary for adjudication of the present writ petition, are that the deceased

petitioner, while serving in the Bihar Forest Service, was put under suspension vide notification contained in Memo No.1537, dated 04.04.1996 and a departmental proceeding was initiated against him vide order no.1852, dated 24.04.1996. Altogether five charges were framed against the deceased petitioner. Immediately thereafter, he superannuated from service on 30.04.1996, while working as Divisional Forest Officer, Social Forest Division, Dumka. Later on, the departmental proceeding against the deceased petitioner was converted into the proceeding under Section 43(b) of the Bihar Pension Rules. Subsequently, the enquiry officer as well as the conducting officer were appointed and the deceased petitioner was granted an opportunity to file his reply to the show-cause notice/charges levelled against him. After thoroughly conducting the departmental proceeding, the enquiry officer submitted his report before the disciplinary authority, wherein he recommended for exoneration of the deceased petitioner from the charges levelled against him and found the charges to be not proved against him. It is the case of the deceased petitioner that without affording any opportunity of filing the second show-cause reply, by the order contained in Memo No.2025, dated 02.06.1999, the punishment of deduction of

20% of the pension was passed against him. Being aggrieved with the order dated 02.06.1999, the deceased petitioner filed a writ petition bearing C.W.J.C. No.9684 of 2001 before this Hon’ble Court. The writ petition filed by him was heard and vide order dated 15.10.2001, passed by a Hon’ble Single Judge of this Court, the impugned order of punishment dated 02.06.1999 was set aside and the matter was remitted back to the concerned authorities for giving fresh opportunity to the deceased petitioner to offer his comments with regard to the tentative reasons, on which the competent authority proposes to differ from the enquiry report and after giving such opportunity to the deceased petitioner, the authorities were directed to proceed in the matter and pass fresh order in accordance with law. The entire exercise was directed to be completed preferably within a period of three months and immediately thereafter decision with regard to the pensionary benefits payable to the deceased petitioner was directed to be taken in accordance with law, within a further period of one month thereafter. Pursuant thereto, a second show-cause notice was issued to the deceased petitioner vide letter bearing No.4076, dated 21.12.2001, issued under the signature of the Deputy Secretary, Department of Environment and Forest. An explanation was submitted by him on 04.01.2002 before the Secretary-cum-Commissioner, Department of Forest and Environment, Government of Bihar. The disciplinary authority proceeded to pass final order contained in Memo No.1407, dated 12.04.2002, whereby the earlier order of deduction of 20% from the pension of the deceased petitioner was reiterated. Being aggrieved with the punishment order dated 12.04.2002, the deceased petitioner again filed a writ petition bearing C.W.J.C. No.8600 of 2002. The said writ petition was heard by a Hon’ble Single Judge of this Court and vide order dated 25.07.2007, the Hon’ble Single Judge proceeded to quash the order contained in Memo No.1407, dated 12.04.2002 and again remitted back the matter to the State Government with a direction to issue fresh show-cause notice, indicating the grounds of difference of opinion. It was further directed that after issuance of the show-cause notice, the deceased petitioner may file a reply within a period of six weeks and the final order shall be passed within three weeks thereafter. It was further directed that such order must be a reasoned order and must reflect consideration of reply to the show-cause notice filed by the deceased petitioner. It is further case of the deceased petitioner that in compliance of the order dated

25.07.2007, passed in C.W.J.C. No.8600 of 2002, fresh show-cause notice was issued to him, which has got no difference, from the earlier show-cause notice issued to him, since in the fresh show-cause notice contained in Letter No.242, dated 22.01.2008, again it was reiterated that why the order be not kept as it is with regard to deduction of 20% pension of the deceased petitioner. Immediately thereafter, a show-cause reply was filed by the deceased petitioner on 03.04.2008, whereby he denied all the charges levelled against him and gave the details of each of the charges, which were levelled against him and which were found to be not sustainable by the enquiry officer in his enquiry report. It is further case of the deceased petitioner that the disciplinary authority again vide order contained in No.1539, dated 18.06.2010 proceeded to pass the same punishment/order of deduction of 20% pension of the deceased petitioner.

SUBMISSIONS ON BEHALF OF THE SUBSTITUTED PETITIONERS

6. The learned counsel for the substituted petitioners submits that despite the fact that the impugned order of punishment passed against the deceased petitioner vide Memo No.2025, dated 02.06.1999 and resolution bearing No.1407, dated 12.04.2002, having been quashed by the Hon'ble Single Judge of this Court and the matter was remitted

back to the disciplinary authority to give detail reason for differing with the enquiry report submitted by the enquiry officer, the disciplinary authority reiterated the punishment order passed against the deceased petitioner, of deduction of 20% of pension and issued a fresh show-cause notice on 22.01.2008, whereby with a pre-determined mind, he again directed the deceased petitioner to file his reply to the show-cause notice that why 20% of the pension be not deducted. He further submits that the disciplinary authority again without even considering the reply filed by the deceased petitioner on 03.04.2008, proceeded to pass the order of punishment against the deceased petitioner, whereby 20% of pension of the deceased petitioner was again directed to be deducted. The learned counsel for the substituted petitioners submits that the disciplinary authority before passing the order of punishment, did not bother to consult the Bihar Public Service Commission, which is mandatory, before passing any order of punishment against a Gazetted Officer. He further submits that the disciplinary authority ought to have considered the reply submitted by the deceased petitioner before passing the impugned order of punishment dated 18.06.2010 and the final order with regard to deduction/reduction of pension has been passed without any consultation with the Bihar Public Service Commission, which is mandatory in terms of law. He submits that the disciplinary authority was adamant from the beginning to punish the deceased petitioner and despite quashing of the order of punishment passed against him by this Hon'ble Court, not once, but twice, he again reiterated the same order of punishment only to satisfy his ego. He further submits that in the entire departmental proceeding and during course of enquiry, it was found that no pecuniary loss has been caused to the State exchequer and therefore, the punishment order passed against the deceased petitioner is itself bad and is not sustainable. He submits that in terms of Rule 43(b) of the Bihar Pension Rules, for imposing punishment, pecuniary loss caused to the State exchequer is mandatory.

SUBMISSIONS ON BEHALF OF THE STATE

7. *Per contra*, the learned counsel appearing on behalf of the State, while relying on the counter affidavit filed on behalf of respondents no.3 to 5 on 08.05.2026, submit that vide Letter No.3731, dated 28.09.1999 of the Department of Environment and Forest, Government of Bihar, the Bihar Public Service Commission was duly requested to grant its approval on the decision taken by the State Government for

deduction of 20% pension of the deceased petitioner. The B.P.S.C. vide its Letter No.1671, dated 29.10.1999 sought for certain clarification/documents and thereafter the deceased petitioner was issued second show-cause notice on 02.12.1999. He submitted his reply to the second show-cause notice on 16.12.1999. All the documents, asked for by the B.P.S.C., were duly provided, however before formal approval of the B.P.S.C. could be obtained, an order was passed by this Hon'ble Court in C.W.J.C. No.9684 of 2001, rendering the proceeding before the B.P.S.C. as infructuous. Subsequently, vide Letter No.691, dated 22.02.2002 of the Department of Environment and Forest, Government of Bihar, the B.P.S.C. was again requested to grant its approval with regard to deduction of 20% pension of the deceased petitioner. The B.P.S.C. vide Letter No.45, dated 06.04.2002 granted its formal approval to the decision of the State Government, with regard to deduction of 20% pension of the deceased petitioner and thereafter vide Resolution No.1407, dated 12.04.2002, the order of punishment to the tune of deduction of 20% pension of the deceased petitioner was passed. It has further been submitted that subsequently in terms of order dated 25.07.2007, passed in C.W.J.C. No.8600 of 2002, notices were issued to the deceased petitioner and after considering the reply submitted by him, the impugned order, contained in Memo No.1539 dated 18.06.2010, was passed. He submits that the order dated 18.06.2010 is a detailed, speaking and reasoned order, which has been passed in compliance of order dated 25.07.2007, passed by this Hon'ble Court in C.W.J.C. No.8600 of 2002. From the order passed by the disciplinary authority, it will transpire that the order has been passed after due application of mind by the disciplinary authority to all the materials on record, including the explanation submitted by the deceased petitioner. Only after assigning valid and cogent reasons and after due application of independent mind, the final decision with regard to deduction of 20% pension of the deceased petitioner was passed. It has further been submitted that prior to issuance of Resolution No.1407, dated 12.04.2002, the State Government duly and completely had the entire process of consultation with the B.P.S.C. in as much as vide Letter No.691, dated 22.02.2002, all the relevant information/documents and records pertaining to the departmental proceeding were forwarded to the B.P.S.C., for seeking approval and final approval was granted on 06.04.2002. Thus, the requirement of consultation with the

B.P.S.C. stood duly concluded prior to passing of the order. The learned counsel appearing on behalf of the State further submits that subsequent to the order dated 25.07.2007, passed in C.W.J.C. No.8600 of 2002, it was only for the limited purpose of issuing a fresh show-cause notice and for passing reasoned order and throughout the entire subsequent process, the charges against the deceased petitioner as well as the quantum of punishment proposed remained identical, in every material facts and circumstances of the case. The subject matter of consultation placed before the B.P.S.C. in the year 2002 remained identical in every material respect to the subject matter of the fresh order passed in 2010. The approval already obtained from the B.P.S.C. remained valid, subsisting and fully applicable rendering any requirement of fresh consultation unnecessary. He submits that there is no infirmity in the impugned order dated 18.06.2010 passed by the disciplinary authority and the deceased petitioner has not pointed out any infirmity in the order passed by the disciplinary authority in the present writ petition. He finally submits that the order passed by the disciplinary authority is in accordance with law and there is no infirmity in the impugned order dated 18.06.2010 and the deceased petitioner has rightly been awarded punishment of deduction of 20% of pension.

FINDINGS

8. Having heard the learned counsel for the parties and after going through the records, it appears that the departmental proceeding was initiated against the deceased petitioner for the charges levelled against him vide Memo No.1852, dated 24.04.1996. Altogether five charges were levelled against him with regard to financial irregularity and other charges. The enquiry officer, after conducting a detailed enquiry, submitted his report before the disciplinary authority, wherein he came to the conclusion that the charges levelled against the deceased petitioner are not proved. He recommended for exoneration of the deceased petitioner from the departmental proceeding/charges which were levelled against him. The disciplinary authority, without issuing of any second show-cause notice to the deceased petitioner, proceeded to award punishment against him of deduction of 20% of pension. The same was assailed by the deceased petitioner by filing a writ petition bearing C.W.J.C. No.9684 of 2001. The Hon'ble Single Judge of this Court vide order dated 15.10.2001, while remitting the matter to the disciplinary authority, set aside the order of punishment and directed for

issuance of fresh notice upon the deceased petitioner, with a liberty to him to file his reply to the said fresh notice and directed for passing fresh order, after considering the reply submitted by him. The disciplinary authority again vide Letter No.4076, dated 21.12.2001, issued show-cause notice to the deceased petitioner with a predetermined mind, wherein he was directed to file his show-cause reply, that why the punishment of 20% reduction in pension be not kept as it is, as passed vide Memo No.2025, dated 02.06.1999. The deceased petitioner filed reply to the said notice, however the disciplinary authority again vide Memo No.1407, dated 12.04.2002 proceeded to pass the same order, i.e., deduction of 20% of pension of the deceased petitioner. The said order dated 12.04.2002 was again assailed by him, by filing a writ petition bearing C.W.J.C. No.8600 of 2002. The writ petition filed by the deceased petitioner was finally disposed of vide order dated 25.07.2007, passed by a Hon'ble Single Judge of this Court by remitting the matter again to the disciplinary authority, after setting aside the order contained in Memo No.1407, dated 12.04.2002, with a direction to issue fresh show-cause notice, indicating the grounds of difference of opinion and after such show-cause notice, the deceased petitioner was given liberty to file his reply, within a period of six weeks and the final order was directed to be passed within three weeks thereafter. It appears that again vide Letter No.242, dated 22.01.2008, show-cause notice was issued to the deceased petitioner wherein again the same show-cause, which was issued earlier and was set aside by this Hon'ble Court, was issued that why the order of punishment of deduction of 20% of pension be not kept as it is. The deceased petitioner filed his reply to the said notice dated 22.01.2008 on 03.04.2008, wherein he gave his defence to each of the charges levelled against him. However, the disciplinary authority again without even considering the reply filed by him, proceeded to affirm the earlier orders and passed the order of punishment vide Memo No.1539, dated 18.06.2010, whereby the order of deduction of 20% pension of the deceased petitioner has been reiterated. It appears that despite repeated opportunities, being granted by this Court to the respondent authorities/disciplinary authority to rectify the earlier infirmity, which was there in the issuance of show-cause notice/order of punishment, the disciplinary authority kept on reiterating the same and ultimately passed the order of punishment of reduction of 20% of pension of the deceased petitioner. In the counter affidavit, a defence has been taken that since the order was reiteration of the earlier orders passed by the disciplinary authority, therefore there was no requirement of taking fresh opinion of the B.P.S.C. on the matter of giving punishment to the deceased petitioner. In the opinion of this Court, when the order of punishment was set aside by this Court twice and the matter was remitted back to the disciplinary authority to pass fresh order, after issuance of fresh show-cause notice to the deceased petitioner, wherein the disciplinary authority was directed to give reasons for his difference with the enquiry report submitted by the enquiry officer, however the disciplinary authority, in complete violation of the directions issued by this Hon'ble Court, again reiterated the same by issuing show-cause notice on 22.01.2008, whereby he again with a pre-determined and pre-occupied mind asked the deceased petitioner to submit his reply to the show-cause notice, that why the earlier order, by which the punishment of 20% of deduction of pension was imposed, be not kept as it is. Further, the proceeding against the deceased petitioner was held under Rule 43(b) of the Bihar Pension Rules and in the entire enquiry report, there is no finding with regard to the deceased petitioner causing any pecuniary loss to the State exchequer has come, therefore the punishment order passed under Rule 43(b) of the Bihar Pension Rules is also not fit to be sustained.

9. From the consideration made above, this Court is of the considered opinion that the impugned order contained in Memo No.1539, dated 18.06.2010 deserves to be set aside and is accordingly, set aside. Since during pendency of the present writ petition, the writ petitioner has already died and his legal heirs have been substituted vide order dated 28.10.2024 passed in this case, there is no justification in remitting back the matter to the disciplinary authority for consideration of the matter afresh.

10. The High Court under Article 226/227 is entitled to interfere when the finding of fact, based on no evidence and if in every case where no valid evidence is laid at the enquiry proceeding, there is a remand made, it would be offering a premium to the negligence of the management/disciplinary authority and condoning the levity with which the departmental enquiry was conducted. It is the disciplinary authority, who appoints the Enquiry Officer and the Presenting Officer and it is expected that the Presenting Officer would be well versed in the procedures and also be informed in the manner in which evidence has to be laid before

the Enquiry Officer, to prove the misconduct, alleged against a delinquent employee. In a disciplinary enquiry proceeding, it is also the trite principle that the standard of proof is preponderance of probability as distinguished from proof beyond reasonable doubt, as would be required in a criminal prosecution. However, if there is no evidence laid at the enquiry, there is no question of any preponderance of probability being drawn to find the allegations proved nor can the delinquent be penalised on the basis of peremptory finding without any valid evidence. The disciplinary authority had an opportunity in a properly constituted enquiry proceeding and if in such a proceeding no evidence was laid, the punishment of dismissal has to be found to be imposed on no valid evidence.

11. Accordingly, the legal heirs of the deceased petitioner are entitled for payment of the entire deducted amount of 20% of pension of the deceased petitioner within a period of four months from the date of receipt/production of a copy of the order. If the entire deducted amount of 20% of pension of the deceased petitioner will not be paid in the account of the legal heirs of the deceased petitioner within the aforementioned period of four months, the legal heirs of the deceased petitioner would be entitled for interest @ 6% from

the date of filing of the writ petition till the date of its actual payment.

12. With the aforementioned observations and directions, the writ petition is allowed.

13. Pending application(s), if any, shall also stand disposed of.

(Ritesh Kumar, J.)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.06.2026
Transmission Date	NA