

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.186 of 2022

Rajmouli Chaudhary, Son of Late Singheshwar Choudhary, Resident of Ashok Nagar, Pokharia, Ward No.37, P.S.-Town, District-Begusarai, Pin-851101.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
2. The Additional Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Special Secretary, Rural Works Department, Government of Bihar, Patna.
4. The Deputy Secretary, Rural Works Department, Government of Bihar, Patna.
5. The Chief Engineer-II, Rural Works Department, Government of Bihar, Patna.
6. The Chief Engineer-IV, Rural Works Department, Government of Bihar, Patna.
7. The Superintending Quality Management, Rural Works Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.N.Shahi, Sr. Advocate Mr. Amit Anand, Advocate Mr. Shivam, Advocate Mr. Pushkar Prashant, Advocate
For the Respondent/s	:	Ms. Archana Meenakshee, GP 6 Mr. Rohit Singh, AC to GP 6 Mr. Harish Singh, AC to GP 6

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT

Date : 17-06-2026

1. Heard Mr. Pushkar Narain Shahi, learned Senior counsel assisted by Mr. Amit Anand, learned counsel for the petitioner and Ms. Archana Meenakshee, learned Government Pleader for the respondents.



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

“(i) For quashing the order as contained in Memo No. 128 dated 14.01.2021 issued under the signature of the Special Secretary, Rural Works Department, Government of Bihar, Patna (Respondent no. 3), as contained in Annexure-9 whereby and whereunder the application submitted by the petitioner for review of order of punishment as contained in Notification No. 863 dated 24.04.2020 circulated under Memo No. 864 dated 24.04.2020 issued under the signature of the Additional Secretary, Rural Works Department, Government of Bihar, Patna (Respondent No. 2), as contained in Annexure-7, has been rejected.

(ii) For quashing Notification No. 863 dated 24.04.2020 circulated vide Memo No. 864 dated 24.04.2020 issued under the signature of the Additional Secretary, Rural Works Department, Government of Bihar, Patna (Respondent No. 2), as contained in Annexure- 7 whereby and whereunder in pursuance of a departmental proceeding conducted against the petitioner under Rule 43(b) of the Bihar Pension Rules, the petitioner has been inflicted with the punishment of reduction of 50% of his pension for a period of five years.

(iii) For grant of any other



incidental/consequential or other appropriate relief/reliefs to which the petitioner may be found entitled in the facts and circumstances of the case fully enumerated hereinbelow.”

3. The case of the petitioner in brief is that he superannuated from the post of Assistant Engineer, Rural Works Department, Works Sub-Division, Hilsa on 28.2.2014. He was served with a notification on 29.11.2016 stating therein that a departmental proceeding in terms of Rule 43(b) is being initiated against him and enclosing with the same a copy of the memo of charges. The charge against the petitioner was that in construction of Telhara Livri Road to Bijokhari Road and Ekangar Sarai Road to Rasisa Road, the work of Seal Coat had not been done by the petitioner and incorrectly showing the same in the measurement book, payment had been made causing a loss of Rs. 1,63,331/ and Rs. 6,13,433/ to the department. The memo of charge further stated about the documentary evidence being letter no. 161 dated 7.4.2014 of the Executive Engineer, Quality Management-3 ie the Office of the Chief Engineer-4 of the Rural Works Department, Bihar. The petitioner submitted his reply denying the charges. An inquiry report dated 31.1.2017 was submitted recommending for exonerating the petitioner.

4. It is the case of the petitioner that the respondents got



the matter further inquired into by the Superintendent, Quality Control, Rural Works Department who also came to the conclusion that the charges leveled against the petitioner were not proved.

5. The respondents served a second show cause notice on the petitioner on 1.2.2018 differing with the contents of the inquiry report to which the petitioner submitted his reply.

6. The respondents came out with an order dated 24.4.2020 issued under the signature of the Additional Secretary, Rural Works Department, Government of Bihar, inflicting the punishment of reduction of 50% of the petitioner's pension for a period of five years.

7. The petitioner preferred a review against the order of punishment, however, the same was rejected by order dated 14.1.2021 passed by the Special Secretary, Rural Works Department, Government of Bihar.

8. It is against the order of punishment dated 24.4.2020 passed by the Additional Secretary, Rural Works Department, Bihar and the order dated 14.1.2021 of the Special Secretary, Rural Works Department, Bihar, rejecting the petitioner's review application that the instant writ application has been filed.

9. It is submitted by the learned Senior counsel appearing



for the petitioner that even after submission of the inquiry report recommending for exonerating the petitioner, the petitioner learnt that departmental authorities got the matter further inquired into by the Superintending Engineer, Quality Control Works, Rural Works Department who having examined the records, came to the conclusion that the charges leveled against the petitioner are not proved. This is recorded in the concerned file on 3.7.2017 and was provided to the petitioner on an application filed by him under the Right to Information Act. Learned Senior counsel further submitted that after the reply to the second show cause was submitted by the petitioner, opinion of a technical expert ie the Chief Engineer-2, Rural Works Department, Bihar, was sought by the department. The Chief Engineer recorded his opinion on 5.7.2019 wherein he clearly expressed that the show cause reply and the stand taken by the petitioner were fit to be accepted. This opinion of the Chief Engineer was also provided to the petitioner on an application filed by him under the Right to Information Act.

10. Learned Senior counsel for the petitioner further submitted that so far as the departmental proceeding is concerned, the same was categorical that with respect to both the roads segments, the work of Seal Coat had not been done by



the petitioner. In the departmental inquiry, the Conducting Officer took note of the fact that in the inquiry report submitted by the NQM (National Quality Monitor) and SQM (State Quality Monitor) pursuant to the inspections carried out by them, the work of 20 mm carpet with Seal Coat Type-A had been found to be satisfactory. It was further submitted that second show cause notice dated 1.2.2018 differing with the inquiry report was on the ground that in the inspection carried out on 28.7.2013 by the NQM (National Quality Monitor), at the relevant 500 meters point 22 mm (thickness) had been recorded as against the prescribed 26 mm. It was submitted that in the agreement entered into between the petitioner and the respondents there was no prescribed minimum thickness of bituminous work with respect to the laying of the Seal Coat nor was it the subject matter of the memo of charge/charge sheet. It was thus submitted that the charge being of no Seal Coat work having been done by the petitioner, the same having been contradicted by the second show cause notice dated 1.2.2018 together with the recommendation of the Conducting Officer in his inquiry report as also the report/recommendation in the internal inquiry conducted by the Superintendent Engineer, Quality Control and the Chief Engineer-2, Rural Works



Department the order of punishment is not sustainable and be set aside with all consequential benefits.

11. The application is opposed by learned Government Pleader appearing for the respondents. Referring to the counter affidavit filed on behalf of the respondents, it was submitted that a departmental proceeding in terms of Rule 43(b) of the Bihar Pension Rules 1950 was initiated against the petitioner relating to work in connection with Telhara Livri Road to Bijokhari Road and Ekangar Sarai Road to Rasisa Road. The petitioner appeared in the departmental proceeding and filed his show cause reply to the charges leveled against him. An inquiry report was submitted, however, differing with the same a second show cause notice was issued to the petitioner to which he submitted his response. Taking into consideration the material on record and especially the contents of the inspection report dated 7.4.2024 that the order of punishment dated 24.4.2020 was passed against the petitioner directing for the reduction of pension by 50% for a period of 5 years. It was submitted that the review preferred by the petitioner was considered and rejected by order dated 14.1.2001.

12. Learned Government Pleader appearing for the respondents further submitted that the petitioner has not been



able to point out any illegality in the order impugned or any procedural irregularity in the conduct of the proceeding. It is also not in dispute that the inspection carried out on 28.7.2013 by the NQM (National Quality Monitor) thickness of the bituminous works at the relevant 500 meters were found to be 22 mm against the prescribed 26 mm. Learned counsel submitted that so far as the measurement etc. having been carried out several years after the work was complete and the contents of the report of the NQM etc. are concerned, the same are questions of fact which cannot be looked into by this Court under Article 226. There has been no illegality in the procedure in conduct of the departmental proceeding and as such there is no merit in the instant writ application and the same be dismissed.

13. Heard learned Senior counsel for the petitioner, learned Government Pleader for the respondents and perused the material on record.

14. The relevant facts in brief are that the petitioner superannuated from the post of Assistant Engineer in the Rural Works Department on 28.2.2014. A departmental proceeding was started against him in terms of Rule 43(b) of the Bihar Pension Rules. The charge against the petitioner was that: (1)



Not having carried out the work of Seal Coat in Telhara Livri Road to Bijokhari Road (BR-24 R-012) having shown the same to have been done in the measurement book for which the contractor was paid, he was responsible for the financial loss of Rs.1,633,331/ caused to the department and (2) Not having carried out the work of Seal Coat in Ekangar Sarai Road to Rasisa Road (BR-24 R-0225) and having shown the same to have been done in the measurement book for which the contractor was paid, he was responsible for the financial loss of Rs.6,13,433/ caused to the department.

15. The petitioner submitted his reply. The Conducting Officer proceeded with the inquiry and submitted the inquiry report dated 30.1.2017 recommending to exonerate the petitioner.

16. It would be relevant to note here that in his inquiry report the Conducting Officer categorically noted/concluded that while the Inspecting Officer in his report mentions about the Seal Coat work not having been done but both SQM (State Quality Monitor) in their inspection carried out on 28.8.2013 and 27.6.2014 with respect to the package BR- 24 R-012 as also the inspection carried out on 27.8.2013 and 27.6.2014 of the package BR-024-R-025 found the bituminous work done in both



the cases to be of satisfactory grade. Thus giving benefit of doubt over the differences in the inspection report submitted by the departmental official and the inspection carried out by the SQM, the Conducting Officer recommended for exonerating the petitioner.

17. Respondents served the petitioner with the second show cause notice dated 1.2.2018 differing with the contents of the inquiry report. A perusal of the same would show that the point of difference was that the NQM (National Quality Monitor) in its inspection carried out on 28.7.2013 had found that at the relevant 500 meter point the thickness of the bituminous work had been found to be 22 mm which was less than the prescribed 26 mm.

18. It may be observed here that the charge against the petitioner was of having got payments made to the contractor under both the works without Seal Coat work having been carried out. So far as the contents of the second second show cause notice dated 1.2.2018 is concerned, accepting the contention of the Rural Works Department, Government of Bihar, their point of difference with the contents of the inquiry report was that though bituminous work had been carried out, the same had a particular point was only on 22 mm and not the



prescribed 26 mm.

19. In the opinion of the Court, the stand of the respondents clearly exonerates the petitioner of the charges levelled against the petitioner in the memo of charge/charge sheet as the respondents even in the second show cause notice accept that Seal Coat work had been carried out by the petitioner. So far as the thickness of the bituminous work in the Seal Coat work having been found to be 22 mm and the same being less than the prescribed thickness of 26 mm, from the material on record it transpires that in the agreement (Serial no.18 of bill of quantities) no thickness has been mentioned/prescribed. Further even the respondents in paragraph no.16 of their counter affidavit clearly state that the department reviewed the whole matter and it was found that in para 510.2.2 of Specification of Rural Road of MORD, separate thickness of Seal Coat Type-A is not mentioned.

20. In view of the facts and circumstances of the case as discussed above, the Court finds the following:

(1) As against the allegation of payments having been made by the petitioner without the work of Seal Coat having been carried out causing financial loss to the department, the department in their second show cause notice dated 1.2.2018



themselves agreed that work was carried out but the thickness of the bituminous work was found to be 22 mm, which was less than the prescribed thickness of 26 mm.

(2) The Conducting Officer in his inquiry report recommended for exonerating the petitioner in view of the inspection report of the State Quality Monitor finding that the bituminous work carried out as being of satisfactory grade.

(3) Pursuant to the internal inquiry carried out by the department, the Superintendent Engineer, Quality Control in his finding recorded in the file on 3.7.2027 as also the Chief Engineer-2, Rural Works Department in his opinion recorded in file on 5.7.2019 both came to the conclusion that the charges levelled against the petitioner were not proved and the show cause submitted by him was fit to be accepted.

(4) The Additional Secretary, Rural Works Department in paragraph no.6 of the order of punishment dated 24.4.2020 though cursorily refers to the opinion of the Chief Engineer-2 in favour of the petitioner, however, he leaves the same without further discussion.

21. For all the above reasons, in the opinion of the Court, the order of punishment as also the order rejecting the review application filed by the petitioner are not sustainable and fit to



be set aside.

22. In view of the facts and circumstances of the case, the order contained in notification no. 863 dated 24.4.2020 issued under the signature of the Additional Secretary, Rural Works Department, Government of Bihar, Patna as also the order as contained in memo no.128 dated 14.1.2021 issued under the signature of the Special Secretary, Rural Works Department, Government of Bihar, Patna are both quashed.

23. The writ application is allowed with all consequential benefits which shall be paid to the petitioner within a period of three months from the date of receipt/ production of a copy of this order.

(Partha Sarthy, J)

Bibhash

AFR/NAFR	
CAV DATE	6.4.2026
Uploading Date	17.6.2026
Transmission Date	

