

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19163 of 2013

Faujdari Chaudhary Son Of Late Shiv Jee Chaudhary Resident Of Village - Bahadurpur Bagicha, P.S. - Bazar Samiti, District - Patna, Presently Posted As Inspector M At The Office Of D.I.G. Patna Range C.R.P.F. Asaiana Digha Road, Patna - 25

... .. Petitioner/s

Versus

1. The Union Of India through the Director General, Central Reserve Police Force, Ministry of Home Affairs, CGO, Complex, Lodhi Road, New Delhi-110003
2. The Special Director General , N.E. Zone, Central Reserve Police Force, Guwahati Assam
3. The Inspector General Of Police, Tripura Sector, Central Reserve Police Force, Kusa Bazar, Airport Road, Agartalla (Tripura West)
4. The Deputy Inspector General, Group Centre, Central Reserve Police Force, Adarani, Agartalla (Tripura)

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Shekhar Singh, Sr. Advocate
	:	Mr.Sumit Kumar, Advocate
	:	Ms.Shambhavi Singh, Advocate
	:	Mr.Hari Om. Advocate
For the Respondent/s	:	Mr.N. A. Shamsi A.S.G.

CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 23-03-2026

Heard learned counsel for the parties.

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

“(i) For quashing the order bearing no. R.XIII-6/2012-NEZ-Estt.-II dated 15.02.2013 passed by the respondent no. 2 whereby the revision petition dated 05.10.2012 preferred by the petitioner against



the punishment (withholding of annual increment for one year without cumulative effect and the suspension period w.e.f. 01.01.2010 to 29.09.2010 to be treated as 'AS SUCH') imposed upon him has been rejected.

(ii) For quashing the order passed by the respondent no. 3 (the appellate authority) bearing no. P-VIII-1/2012-ADM-2 dated 31.08.2012 whereby the appeal dated 25.02.2012 filed by the petitioner against the order of punishment passed by the disciplinary authority i.e. the respondent no. 4, has been rejected.

(iii) For quashing the order passed by the respondent no. 4 bearing no. P-VIII-4/2010-Estt.-2 dated 15.02.2012 whereby the disciplinary authority has awarded punishment of withholding of increment for one year without cumulative effect and the suspension period w.e.f. 01.01.2010 to 29.09.2010 to be treated as 'AS SUCH', which is a major punishment, without considering the relevant provision as envisaged in Central Reserve Police Force Act, 1949.



(iv) For other relief/s for which the petitioner is entitled.”

3. The brief facts giving rise to the present writ petition are that initially the petitioner was appointed as an Assistant Sub-Inspector in the Central Reserve Police Force (hereinafter referred to as the ‘CRPF’) and subsequently was promoted to the post of Inspector (M). During his posting in PAO, CRPF, New Delhi, the petitioner was put under suspension vide order dated 23.12.2009 in contemplation of disciplinary proceeding for certain alleged omission and commission, during his posting in 189 battalion of CRPF, Group Centre, Agartalla and during the period of suspension his Headquarter was fixed at PAO, CRPF, New Delhi. Subsequently, the petitioner was transferred to group centre, CRPF, Agartalla and vide order dated 09.02.2010, the Headquarter was changed to group centre CRPF, Agartalla. The memorandum of charge was served upon the petitioner in March, 2010 on certain charges, which were mentioned in the said memorandum of charge. Subsequently, the Inquiry Officer and the Presenting Officer were appointed and during course of inquiry, the petitioner by way of filing reply, denied all the charges levelled against him. Along with memo of charge, list of



documents and list of witnesses were also given. During course of inquiry, the petitioner asserted that the signature of one Samlendra Kumar in the month of August, 2008, appears to be genuine and the same may be verified from the handwriting expert, to falsify the charges levelled against the petitioner, but the said request was not acceded to by the Inquiry Officer, which caused great prejudice to the case of the petitioner, particularly, when it was asserted by him, during course of inquiry that all the verifications were made and actions were taken to find out the alleged irregularity behind his back, when he was away from 189 battalion at Agartalla as the co-opted member of the Recruitment Board. Further, during course of the inquiry, the petitioner clarified the fact that the charges levelled against him were absolutely baseless, but the Inquiry Officer without verifying the said fact, proceeded to submit his Inquiry Report with a finding that the charges levelled in Article (I) and (II) have been found to be partially proved, while with regard to charge levelled in Article (III) is not found to be proved. The Inquiry report was communicated to the petitioner vide letter dated 02.04.2011 and after receipt of the said Inquiry report, the petitioner filed his reply before the disciplinary authority on 12.04.2011.



Submissions on behalf of the Petitioner

4. The learned Senior counsel for the petitioner submits that the disciplinary authority, without considering the reply filed by the petitioner on 12.04.2011, proceeded to award punishment against the petitioner vide order bearing no. P-VIII-4/2010-Estt.-2 dated 15.02.2012. The disciplinary authority awarded punishment of withholding one increment without cumulative effect for one year and further directed that the period under suspension w.e.f. 01.01.2010 to 29.09.2010 i.e. total 272 days are regularised as such for all practical purposes. Being aggrieved with the order dated 15.02.2012, the petitioner preferred statutory appeal on 25.02.2012, wherein he took a plea that although along with memo of charge, four witnesses were named for being examined, but two witnesses, who were material witnesses to prove the allegations levelled against the petitioner, did not turn up for examination, thereby the petitioner was denied an opportunity to cross-examine them to rebut the charges, which were found to be proved against the petitioner by the Inquiry Officer. The appellate authority without appreciating the defence raised by the petitioner in his memo of appeal dated 25.02.2012, proceeded to pass the order bearing No. P-VIII-1/2012-ADM-2 dated 31.08.2012 whereby the



appeal preferred by the petitioner was rejected and the order passed by the disciplinary authority was upheld.

5. The learned Senior counsel for the petitioner submits that while rejecting the appeal preferred by the petitioner, appellate authority did not deal any of the grounds taken by the petitioner in his memo of appeal dated 25.02.2012 and only in mechanical manner proceeded to reject the appeal preferred by the petitioner. The petitioner preferred revision before the revisional authority on 05.10.2012, but the same was also rejected by the revisional authority vide order bearing No. R.XIII-6/2012-NEZ-Estt.-III dated 15.02.2013, without even considering the points taken by the petitioner in his revision petition.

6. The learned Senior counsel for the petitioner submits that the orders passed by the disciplinary authority is not sustainable, since the charges were issued against the petitioner under Section 11(1) of the CRPF Act, which provides for minor punishment, but the punishment awarded by the disciplinary authority by the impugned order is not one of those prescribed under Section 11(1) of the Act, therefore, on this count alone the impugned order of punishment is fit to be set aside. It has further been submitted that on identical charges of



not exercising supervision over working of MT fleet of 189 Battalion CRPF, after court of inquiry, some officials were left only after warning, which is evident from letter dated 24.06.2010 issued under the signature of the D.I.G., Group Centre, CRPF, Agartalla, whereas in case of the petitioner, despite the fact that the charges against the petitioner have been found by the Inquiry Officer to be partially proved, he has been awarded major punishment in violation of the provisions contained in Section 11(1) of the CRPF Act.

7. The learned Senior counsel for the petitioner further submits that while passing the order of punishment, the disciplinary authority ignored the defense taken by the petitioner in his reply dated 15.03.2011, that he himself used to sign on the attendance register along with other personnel and after completion of the signature on attendance register, it was to be sent to the adjutant for counter signature, who happens to be the Controlling Officer and the custodian of the attendance register. He further submits that as per para 2.1 of the Establishment manual, the Head Clerk is only responsible to ensure punctuality of the subordinate and reporting of the case of unauthorized absence to the adjutant, which the petitioner did constantly and it is the adjutant who is the Controlling authority and is said to



be the custodian of the attendance register.

8. The learned Senior counsel for the petitioner further submits that the defense witnesses, who were produced by the petitioner, have categorically stated that the attendance register, after completion of the signature, was used to be submitted to the adjutant and the said statement has neither been taken into consideration nor has been dealt with in the impugned order also. Further, the impugned order of punishment is fit to be set aside on the ground that the punishment order was passed after a delay of about one year from the submission of the inquiry report.

9. The learned Senior counsel for the petitioner submits that although, four witnesses were named for being examined along with the memo of charge, but two of the witnesses i.e. P.W.-1 and P.W.-3 were not examined. Although, P.W.-1 was a material witness, since he was the adjutant who would have identified the signature, that whether the same was forged or not? He further submits that in the inquiry report, the Inquiry Officer himself has assumed the role of the Presenting Officer, since nowhere the Inquiry Officer has considered the statement of the Presenting Officer and it is not clear that whether the Presenting Officer participated in the departmental



proceeding or not?

10. The learned Senior counsel for the petitioner submits that none of the authorities i.e. the disciplinary authority, the appellate authority and the revisional authority bothered to take into account the reply/memo of charge/grounds taken in the reply/memo of appeal/revision petition and proceeded to pass the orders in mechanical manner only on the basis of the inquiry report. Even in the order passed by the disciplinary authority, there is no consideration of the reply submitted by the petitioner and the disciplinary authority proceeded to pass the order impugned only on the basis of the inquiry report and its consideration.

11. The learned Senior counsel for the petitioner refers to and relies on a judgment passed by a Co-ordinate Bench of this Court in the case of *Sri Jaiprakash Narayan vs. The State of Bihar and Ors.*, reported in **2005(3) PLJR 142**, wherein in paragraph no. 8, it has been held as follows:-

“8. The aforesaid reasoning of this Court with regard to the enquiry report would find support from the judgment of the Supreme Court reported in AIR 1985 SC 1121 (Anil Kumar v. Presiding Officer & Ors.). Dealing with the order of punishment for reasons of non-application of mind in the enquiry report their Lordships were pleased to hold in para



5 of the judgment that a disciplinary enquiry is a quasi judicial enquiry to be held in consonance with the principles of natural justice. The Enquiry Officer has to apply his mind to the evidence, discuss the evidence and not record his ipse dixit that the charges are proved. The enquiry report must permit a peep into the mind of the Enquiry Officer and that he considered the pros and cons of the matter before arriving at a conclusion. The report has to be an speaking order in the sense that the conclusion must be supported by reasons. This would be the view reiterated in (2002) 7 SCC 142 (Sher Bahadur v. Union of India & Ors.). The mere recital of the rhetoric words that he had considered the oral, documentary and circumstantial evidence as adduced in the enquiry would not suffice to uphold the same.”

12. The learned Senior counsel for the petitioner further refers to and relies on a judgment of the Hon’ble Supreme Court of India in the case of ***Roop Singh Negi vs. Punjab National Bank and Ors.*** reported in **2009 (2) SCC 570**, wherein in paragraph nos. 14 and 23, the Hon’ble Supreme Court of India has held as follows:-

“14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-



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

23. Furthermore, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the criminal court on the basis of selfsame evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible.



The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the enquiry officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof.”

13. The learned Senior counsel for the petitioner refers to and relies on a judgment of the Hon’ble Supreme Court of India in the case of *Ravi Yashwant Bhoir vs. the Collector* reported in **2012 (4) SCC 407**, wherein in paragraph nos. 38 and 44, the Hon’ble Supreme Court of India has held as follows:-

“**38.** It is a settled proposition of law that even in administrative matters, the reasons should be recorded as it is incumbent upon the authorities to pass a speaking and reasoned order.

44. This Court while deciding the issue in *Sant Lal Gupta v. Modern Coop. Group Housing Society Ltd.* [(2010) 13 SCC 336 : (2010) 4 SCC (Civ) 904], placing reliance on its various earlier judgments held as under : (SCC pp. 345-46, para 27)

“27. It is a settled legal



proposition that not only administrative but also judicial orders must be supported by reasons recorded in it. Thus, while deciding an issue, the court is bound to give reasons for its conclusion. It is the duty and obligation on the part of the court to record reasons while disposing of the case. The hallmark of order and exercise of judicial power by a judicial forum is for the forum to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration of the justice delivery system, to make it known that there had been proper and due application of mind to the issue before the court and also as an essential requisite of the principles of natural justice.

‘3. ... The giving of reasons for a decision is an essential attribute of judicial and judicious disposal of a matter before courts, and which is the only indication to know about the manner and quality of exercise undertaken, as also the fact that the court concerned had really applied its mind.’
[Ed. : As observed in State of Rajasthan v. Sohan Lal, (2004) 5 SCC 573, p. 576, para 3.]

The reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, the order becomes lifeless. Reasons substitute subjectivity with objectivity. The absence of



reasons renders an order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. Recording of reasons is the principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected must know why his application has been rejected.”

Submissions on behalf of the Respondent-State

14. Per contra, the learned counsel for the Union of India submits that it was the petitioner who was responsible for up-keep of the attendance register and the attendance of the employees were marked in presence of the petitioner and after its verification the same was used to be sent to the adjutant for final verification. After his verification, the same was used to be returned to the petitioner and the petitioner was the custodian of the said attendance register. He further submits that as per paragraph no. 2.1 of the Establishment Manual, the Head Clerk is responsible only to ensure punctuality of the subordinates and reporting the case of the unauthorised absence to the adjutant, which in the present case, the petitioner did not do, since he did not report to the Controlling Officer about any unauthorised absence of one Samlendra Kumar. Further, during course of the



inquiry, although the petitioner requested the Inquiry Officer for sending the signature of Samlendra Kumar to the handwriting expert for its verification, but the witnesses during course of examination have stated that the signature of the authorities concerned, were not genuine and the said signatures were interpolated. The P.W.-4 gave a specific statement before the Inquiry Officer that the signature on the attendance register was not his signature and the same has been interpolated. Even the D.W.-2 -Dharmendra Kumar Dubey has stated that his signature for the concerned month, was interpolated and he did not identify his signatures.

15. The learned counsel for the Union of India further submits that although, the memo of appeal was issued under Section 11(1) of the CRPF Act, but the proceeding was conducted under Rule 27 of the CRPF Act and as per the table contained therein Clause-7 speaks of stoppage of increment, therefore, there is no infirmity in the impugned order which has been passed under the provisions contained in Rule 27 of the CRPF Act.

16. The learned counsel for the Union of India further submits that the authorities concerned took a lenient view in the matter, in view of the fact that the petitioner has got a family



dependent upon him and therefore proceeded to pass minor punishment.

17. The learned counsel for the Union of India refers to and relies on a judgment of the Hon'ble Supreme Court of India in the case of *Union of India and Ors. vs. Diler Singh* reported in **2016 (13) SCC 71**, wherein in paragraph nos. 11, 19, 20 and 21, the Hon'ble Supreme Court of India has held as follows:-

“11. Section 7 specifies in general duties of members of the Force. Section 8 provides for superintendence, control and administration of the Force. Section 9 stipulates about more heinous offences. It provides that a member who commits heinous offences shall be punishable with transportation for life for a term of not less than seven years or with imprisonment for a term which may extend to fourteen years or with fine which may be extended to three months' pay or with fine to that extent in addition to such sentence of transportation or imprisonment. Section 10 provides for less heinous offences. It states that a member of the Force who commits such offence shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay, or with both. Thus, the aforesaid provision defines the offences and provides punishment for the same.



19. It is necessary to state here that the High Court while admitting the second appeal should have framed the substantial question(s) of law which would have been adverted to at the time of final hearing. That is the command of the provision and has been clearly stated by this Court in a number of occasions. We may unhesitatingly state that we do not remotely get a sprinkle of bliss by ingeminating or repeating the same. It has been done following the rigoristic concept of “duty for duty sake” with the great expectation that this would be the last one.

20. The core issue that emerges for consideration is whether under Section 11(1) of the Act, punishment of dismissal can be imposed. The controversy is no more res integra. In Ghulam Mohd. Bhat [Union of India v. Ghulam Mohd. Bhat, (2005) 13 SCC 228 : 2006 SCC (L&S) 1215] while interpreting Section 11 of the Act, it has been held thus: (SCC p. 232, paras 5-6)

“5. A bare perusal of Section 11 shows that it deals with minor punishment as compared to the major punishments prescribed in the preceding section. It lays down that the Commandant or any other authority or officer, as may be prescribed, may, subject to any rules made under the Act, award any one or more of the punishments to any member of the Force who is found guilty of disobedience, neglect of duty or



remissness in the discharge of his duty or of other misconduct in his capacity as a member of the Force. According to the High Court the only punishments which can be awarded under this section are reduction in rank, fine, confinement to quarters and removal from any office of distinction or special emolument in the Force. In our opinion, the interpretation is not correct, because the section says that these punishments may be awarded in lieu of, or in addition to, suspension or dismissal.

6. The use of the words “in lieu of, or in addition to, suspension or dismissal”, appearing in sub-section (1) of Section 11 before clauses (a) to (e) shows that the authorities mentioned therein are empowered to award punishment of dismissal or suspension to the member of the Force who is found guilty and in addition to, or in lieu thereof, the punishment mentioned in clauses (a) to (e) may also be awarded.”

And again: (SCC p. 233, para 7)

“7. ... It is, therefore, clear that Section 11 deals with only those minor punishments which may be awarded in a departmental inquiry and a plain reading thereof makes it quite clear that a punishment of dismissal can certainly be awarded thereunder even if the delinquent is not prosecuted for an offence under Section 9 or Section 10.”



21. We respectfully agree with the said view and opine that under the scheme of the Act, in exercise of power under Section 11(1) of the Act, punishment of dismissal can be imposed. As is seen from the impugned order, the High Court, to reverse the conclusion of the first appellate court, has extensively quoted from the decision of the Calcutta High Court rendered in Akhilesh Kumar [Inspector General of Police, CRPF v. Akhilesh Kumar, (2007) 6 SLR 438 : 2007 SCC OnLine Cal 810] . Be it stated that the charges levelled against the delinquent officer therein were the same. The Division Bench of the Calcutta High Court, analysing the Act, especially Section 10(m) and various clauses of the CRPF Manual, came to hold thus: (SLR p. 440 : SCC OnLine Cal paras 8-9)

“8. It is an admitted position from the factual matrix of the departmental proceeding that the writ petitioner/delinquent was posted in a camp. As per rule of such positing in a camp/lines the personnel concerned is not free to move as per his choice even during the period when he is not on actual duty. The discipline of a camp is completely different in comparison with the posting of an individual in an office and or in other places outside of the camp. It is true, by rotation of 8 hrs duty is allotted to the respective personnel who are attached to the



camp and staying in the camp but that does not mean that when he will not be in active duty, he would be allowed to go outside of the camp without prior permission. From the relevant provision of Clauses 7.2 and 6.23 as already quoted it appears that absence without leave or permission from the camp would invite initiation of judicial trial of the delinquent if there is a serious and grave situation or otherwise a departmental enquiry. Hence, finding of the learned trial Judge that as the delinquent/writ petitioner was not on active duty, the aforesaid clauses got no effect, is not appealing us for its applicability to quash the order of dismissal. However, from the aforesaid provision of maintaining discipline while a personnel is posted in a camp which requires a prior permission to leave the camp even for a short period from the Company Commander, we are of the view that the charge under Article 1 was proved. Now, on the question of quantum of punishment, namely, dismissal from service as imposed on such charge, we are of the view that as under Clause 6.23 there is a provision for initiation of the departmental enquiry and as per decision only a minor punishment could be imposed and as Section 10(m) of the CRPF Act provides the minor punishment issue in that field, we are of the view that dismissal being a major punishment should not have been



passed by the disciplinary authority.

9. Considering all the issues, we are quashing the order of dismissal as well as the order of confirmation of such by the appellate authority and remanding the matter back to the disciplinary authority under the service regulation of the delinquent to decide the quantum of punishment as would be commensurate with the charge of misconduct as admitted, which invites only minor punishment.”

18. The learned counsel for the Union of India further refers to and relies on a judgment of the Hon'ble Supreme Court of India in the case of *Union of India and Ors. vs. Santosh Kumar Tiwari* reported in **2024 (3) PLJR 32 SC**, wherein in paragraph no. 32, the Hon'ble Supreme Court of India has held as follows:-

“**32.** From above, it is clear that ‘control’ is a word of wide amplitude and includes disciplinary control. Therefore, in our view, if the CRPF Act envisages vesting of control over the Force in the Central Government and the various punishments imposable under Section 11 are subject to the rules made under the Act, the Central Government in exercise of its general rule-making power, to ensure full and effective control over the Force, can prescribe punishments other than



those specified in that section, including the punishment of compulsory retirement.”

19. The learned counsel for the Union of India further refers to and relies on a recent judgment of the Hon’ble Supreme Court of India in **Civil Appeal No. 10858 of 2024 (S.Janaki Iyer vs. Union of India and Ors.)**, wherein in paragraph no. 26 has held as follows:-

“26. Mere delay during the inquiry proceedings, when it is explained with regard to the time taken for the inquiry to conclude and that too justifying the same with no prejudice having been caused, cannot be made the basis for vitiating the departmental proceedings. Inordinate or unexplained delay in the departmental proceedings may be a justifiable ground if tampered with prejudice having been established to have been caused to the delinquent employee in the said process for interference by the Court. In the present case, the same is absent and therefore the said plea of delay fails.”

Consideration

20. Having heard the learned counsel for the parties and after going through the records, this Court finds that for the charges levelled against the petitioner, a proper departmental



proceeding was conducted, wherein the petitioner duly participated and took a plea that the signature of one Samlendra Kumar be sent for its identification/verification by the handwriting expert, but the same request was not acceded to. Further, during course of the inquiry the witnesses produced on behalf of prosecution and even the defense had stated that their respective signatures on the attendance register were not genuine and the same has been interpolated with, but the petitioner did not take any plea for sending the same to the handwriting expert for its verification. The Inquiry Officer, after conducting due inquiry submitted his Inquiry report before the disciplinary authority for taking further and necessary action. The disciplinary authority issued notice to the petitioner and along with said notice, provided Inquiry Report and on the basis of the Inquiry Report the petitioner submitted his statement of defence/show-cause, wherein he took a plea that the Inquiry Officer did not send the signature of Samlendra Kumar to the handwriting expert for its verification, that whether the same is genuine or not. The petitioner also took a plea that he kept on requesting the authorities concerned and has even written note sheet on the file, that Samlendra Kumar is indulging in illegal activities and he is regularly being found absent from his duties,



but the note sheet was never returned back to the petitioner for the reasons best known to the authorities concerned. He further took a plea that the attendance register was forwarded by the petitioner to the adjutant for its verification and during the intervening period he cannot verify that whether any interpolation has been done or not. The petitioner further took a plea in his reply that the adjutant, who was the final authority to verify the attendance register, was not examined, thereby the petitioner was denied an opportunity to cross-examine him to rebut the charges that whether his signature on the attendance register was genuine or not. In the inquiry proceeding there is no mention of the fact that whether the Presenting Officer appeared to support the case of the prosecution or not and from the Inquiry report it appears that the Inquiry Officer on his own proceeded to partially prove charge no. 1 and 2 on the basis of his own conclusion and he himself assumed the role of the Presenting Officer. The disciplinary authority, while passing the order impugned dated 15.02.2012, did not even consider the reply submitted by the petitioner, to the second show-cause notice issued to him and proceeded to pass the order of punishment only on the basis of the consideration of the inquiry report. He has not uttered a single word in the impugned order



with regard to the consideration of the reply submitted by the petitioner.

21. In view of the settled legal proposition which has been relied upon by the learned senior counsel for the petitioner, that the Inquiry Officer is not supposed to assume the role of the Presenting Officer in a quasi judicial proceeding and further that the disciplinary authority is required to not only consider the reply submitted by the delinquent, but also give his reasoning for rejecting the reply submitted by the delinquent. In the present case not such finding has been recorded by the disciplinary authority, that why the reply submitted by the delinquent was not considered.

22. Accordingly, on the basis of consideration made above, the orders impugned contained in order made bearing P-VIII-4-2010-Estt.-2 dated 15.02.2012, Order bearing no. P-VIII-1-2012 ADM-2 dated 31.08.2012 and the Order bearing no. R.XIII-6/2012-NEZ-Estt-(ii) dated 15.02.2013 passed by the respective authorities deserve to be set aside and are accordingly set aside.

23. Since during pendency of the writ petition, the petitioner has superannuated from service in 2021, there is no justification in remitting the matter back to the disciplinary



authority in view of the order of the Hon'ble Division Bench of this Court passed in **L.P.A. No. 446 of 2024 (The State of Bihar & Ors. vs. Vikash Kumar @ Vikas Kumar)**, wherein in paragraph nos. 12 and 13, the Hon'ble Division has held as follows:-

“**12.** From the above extract it is very clear that the High Court under Article 226/227 is entitled to interfere when the finding of fact is based on no evidence. If in every case where no valid evidence is led at the enquiry proceedings, 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 also the Presenting Officer. We would think that the Presenting Officer would be well versed in the procedures and also be informed of the manner in which evidence has to be led before the Enquiry Officer to prove the misconduct alleged against the delinquent employee.

13. In disciplinary enquiry proceedings, 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 led at the enquiry, there is no question of any



preponderance of probability being drawn to find the allegations proved nor can the delinquent be penalized on the basis of peremptory findings without any valid evidence.”

24. A similar view has also been taken by this Court in the case of *Nutan Kumar Prabhat vs. The State of Bihar & Ors.* passed in **CWJC No. 4696 of 2023**, wherein in paragraph 25, it has been held as follows:-

“25. The High Court under Article 226/227 is entitled to interfere when the finding of fact is 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. Since, the petitioner has superannuated on 31.10.2025, he would be deemed to have continued in service from the date of dismissal and will be entitled to be paid the entire pay and allowances. The petitioner shall also be entitled to the retirement benefits, including pension from the date of his superannuation.”

25. Accordingly, the respondent authorities are directed to re-calculate the entitlement of the petitioner by giving benefits of one increment, which has been withheld by the impugned order dated 15.02.2012 and grant the consequential benefits thereupon, to the petitioner. The entire exercise must be done within a period of three months from the date of receipt/production of a copy of the order.

26. The writ petition is allowed in the aforementioned



terms.

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

(Ritesh Kumar, J)

vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.03.2026
Transmission Date	

