IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4443 of 2023

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Manoj Kumar Sudhanshu, Dy. S.P., Batch- 45th Son of Late Ramayan Ram Permanent resident of Village- Rampur Kothi, Post- Bhawanpur Hatt, Police Station- Bhawanpur Hatt, District- Siwan, 841408, At present Deputy Superintendent of Police, under control of The Director General of Police, Bihar, Sardar Patel Bhawan, Bailey Road, Patna, Bihar.

... ... Petitioners

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Home, Government of Bihar, Sardar Patel Bhawan, Bailey Road, Patna, Bihar.
2. The Additional Chief Secretary, Department of Home, Government of Bihar, Sardar Patel Bhawan, Bailey Road, Patna, Bihar.
3. The Principal Secretary, Department of Home, Government of Bihar, Sardar Patel Bhawan, Bailey Road, Patna, Bihar.
4. The Director General of Police, Sardar Patel Bhawan, Bailey Road, Patna, Bihar.
5. The Additional Director General of Police Headquater, Sardar Patel Bhawan, Bailey Road, Patna, Bihar.
6. The Additional Director General of Police (Legal Affairs), Sardar Patel Bhawan, Bailey Road, Patna, Bihar.
7. The Inspector General of Police (Headquarter), Office of the Director General of Police, Sardar Patel Bhawan, Bailey Road, Patna, Bihar.
8. The Inspector General of Police, Bhagalpur.
9. The Senior Superintendent of Police, Bhagalpur.
10. The Conducting Officer cum Inquiring Officer, namely Mr. Vinay Kumar (IPS) presently Inspector General of Police, I.G. (HQ).
11. The Presenting Officer namely Mr. Sunil Kumar, Dy. S.P., Bhagalpur (Headquarter), Bhagalpur.
12. The then, Deputy Inspector General of Police, namely Mr. Vikas Vaibhav (IPS), Bhagalpur.
13. The Nodal Officer (Bihar), HDFC Bank Ltd, Jardine House, 4 Clive Row, Kolkata- 700001.

... ... Respondents

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Appearance :

For the Petitioner : Mr. Y.V. Giri, Sr. Advocate
Mr. Rohit Kumar, Advocate
Mr. Manish Kumar No. 13, Advocate
Ms. Priti Kumari, Advocate

For the Respondents : Mr. P.K. Verma, AAG-3
Ms. Suman Kumar Jha, A.C. to AAG-3

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
CAV JUDGMENT
Date : 13-01-2026

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

2. This application has been filed challenging the punishment order dated 22.12.2022, by which the petitioner has been visited with the punishment of withholding of five increments with cumulative effect and prohibition on promotion for five years from the due date of promotion. The petitioner has also challenged the inquiry report dated 02.05.2022, by which petitioner has been found guilty in the departmental proceeding as well as the memo of charge dated 28.08.2019. The petitioner has further challenged another purported charge memo dated 01.08.2019. The petitioner has also challenged the preliminary inquiry report dated 26.02.2019 and the letter dated 05.08.2019, by which additional relevant documents were recommended to be added in the memo of charge.

3. By way of filing an interlocutory application no.1 of 2025, the petitioner has also challenged the order dated 18.04.2023, by which the review petition filed by the petitioner challenging the punishment order was rejected. The aforesaid interlocutory application was allowed by a coordinate Bench of

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this Court vide order dated 05.05.2025.

4. The brief facts, relevant for the present petition, are that petitioner joined the Bihar Police Service as Dy.S.P. after qualifying the 45th BPSC combined competitive examination and was posted as Sub-Division Police Officer, Kahalgaon, Bhagalpur wherein he was entrusted with the supplementary investigation of Kahalgaon P.S. Case No.337 of 2018. For the present purpose, suffice it is to state that in the aforesaid criminal case the allegation of overloading and illegal mining were levelled against the accused persons therein and during a raid conducted, several bank account passbooks, cash and other articles were seized. The petitioner while conducting the supplementary investigation submitted a "No Objection Certificate" to the concerned trial court for de-freezing the bank accounts of the accused person of Kahalgaon P.S. Case No. 337 of 2018. On the strength of such NOC, the accounts of the accused persons were de-freezed.

5. The thrust of the allegation is that the petitioner failed to take appropriate steps to confiscate the illegal amount and on the other hand issued an NOC, which led to the release of the aforesaid funds. On the allegation of such irregularities, dereliction of duty and suspicious conduct, a

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disciplinary proceeding was initiated against the petitioner. On 26.02.2019, a preliminary enquiry was conducted by the DIG, Bhagalpur wherein the petitioner was found to have conducted the supplementary investigation irregularly. Thereafter, the Inspector General of Police (Headquarters) vide his letter dated 27.02.2019 recommended for the suspension of the petitioner. According to the respondents, the Department of Home, Government of Bihar, sought draft memo of charge against the petitioner from the Director General of Police, Bihar vide its letter dated 06.06.2019. On 01.07.2019, the DIG, Bhagalpur sent his recommendation to the I.G., Headquarters for initiating a disciplinary proceedings against the petitioner. According to the respondents, on 01.08.2019, the draft memo of charges was sent to the Department of Home, Government of Bihar. In the meanwhile, the I.G., Headquarters sent certain additional relevant documents on 05.08.2019 for incorporating the same in the aforesaid draft memo of charge.

6. On 28.08.2019, a show cause notice along with memo of charge, list of witnesses and documents were served upon the petitioner. Responding thereto, the petitioner submitted his statement of defence on 09.09.2019. Finding the statement of defence to be unsatisfactory, the petitioner was

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suspended in contemplation of disciplinary proceeding vide order dated 18.09.2019 and thereafter, the disciplinary proceeding was initiated against him. On 20.01.2020, the petitioner filed his detailed representation.

7. In the impugned inquiry report dated 02.05.2022, petitioner was found guilty against charge nos.1 and 2 whereas in charge no.3, the petitioner was found partially guilty. Considering the inquiry report, a show cause notice was issued to the petitioner on 11.07.2022, to which the petitioner filed his reply. Being dissatisfied with the reply of the petitioner, the Department of Home, Government of Bihar, vide its letter dated 30.09.2022 sought advise from the Bihar Public Service Commission on the proposed punishment, to which the BPSC concurred vide its letter dated 23.11.2022. Finally, the impugned order of punishment dated 22.12.2022 was issued by the disciplinary authority whereby the punishment of withholding of five increments with cumulative effect along with prohibition on promotion for five years from the due date of promotion was imposed upon the petitioner. Against the order of punishment, the petitioner preferred a review, which came to be rejected vide impugned order dated 18.04.2023.

8. Learned Senior Counsel for the petitioner

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submits that the punishment of withholding of five increments with cumulative effect is classified as 'major punishment' whereas, 'prohibition on promotion for five years from due date' is a minor punishment under Rule-14 of the Bihar CCA Rules, 2005. It is therefore, submitted that such punishment is unsustainable and is in teeth of the law laid down by the Hon'ble Supreme Court in the case of ***Union of India & Anr. vs. S.C. Parashar*** reported as ***(2006) 3 SCC 167*** wherein the Hon'ble Supreme Court has held that both major and minor punishment cannot be imposed simultaneously upon the delinquent employee by the very same punishment order.

9. Adverting to the impugned order dated 22.12.2022, it has been argued by learned Senior Counsel for the petitioner that the aforesaid order suffers from non-application of mind and it has been passed in the most mechanical manner without considering the defence submitted by the petitioner and pertinently without assigning any cogent reason. Therefore, the impugned orders and the enquiry report are unsustainable and are liable to the quashed.

10. Lastly, it has been submitted by learned Senior Counsel for the petitioner that in the present case, two charge memos were served to the petitioner without assigning

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reasons warranting issuance of second memo of charge. It is categorically submitted that the first memo of charge dated 01.08.2019 in which list of witnesses included only two witnesses, however, in the second memo of charge dated 28.08.2019, the list of witnesses was increased to three. According to the learned Senior Counsel, this has caused serious prejudice to the petitioner.

11. In this case, the respondents have filed their counter affidavits stating therein that only one memo of charge was issued to the petitioner as the first one was the draft memo of charge and after receiving the letter from the I.G., Headquarters who had sent certain additional relevant documents on 05.08.2019 for incorporating the same in the draft memo of charge, the final memo of charge along with the list of witnesses and documents was served upon the petitioner. Lastly, the respondents have supported the impugned order of punishment and the order passed in review and have submitted that there is no illegality or infirmity in the impugned orders and therefore, this Court may not interfere with the same.

12. I have considered the submissions of the parties and perused the materials on record.

13. From the perusal of the records of the case, it

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appears that the petitioner was entrusted with the supplementary investigation of Kahalgaon P.S. Case No.337 of 2018, which was registered against the accused persons therein on the allegation of overloading and illegal mining and during the raid, several bank account passbooks, cash and other articles were seized and the amount was frozen and the seized bank accounts were exhibited as evidence. The main allegation against the petitioner is of not conducting the aforesaid supplementary investigation properly and of submitting a "No Objection Certificate" to the concerned trial Court for de-freezing the bank accounts of the accused persons therein without obtaining prior permission/order from his superior officers and a copy of the same has also been sent by him to the Branch Manager of the concerned Bank. On the strength of the same, the bank accounts were de-freezed and more than Rs.50,00,000/- were released from the bank accounts of the accused persons. Thereafter, the show-cause notice along with the memo of charge, list of witnesses and documents were served upon the petitioner. Being dissatisfied with the reply of the petitioner, the petitioner was suspended in contemplation of disciplinary proceeding and the disciplinary proceeding was initiated against him. In the inquiry report dated 02.05.2022, petitioner was found guilty against

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charge nos.1 and 2 whereas in charge no.3, the petitioner was found partially guilty. The disciplinary authority agreeing with the enquiry report has issued second show-cause notice to the petitioner, to which the petitioner replied. Being dissatisfied with the reply of the petitioner, the punishment order dated 22.12.2022 was passed inflicting major and minor punishment i.e. withholding of five increments with cumulative effect and prohibition on promotion for five years from the due date of promotion. Against the order of punishment, the petitioner preferred a review petition unsuccessfully.

14. This Court finds substance in the submission of learned Senior Counsel for the petitioner that both major and minor punishment cannot be packaged into one and imposed simultaneously by one order. It would be apposite to quote relevant paragraphs of the decision of the Hon'ble Supreme Court in the case of ***S.C. Parashar (supra),*** which read as under:

> *"12. The penalty imposed upon the respondent is an amalgam of minor penalty and major penalty. The respondent has been inflicted with three penalties: (1) reduction to the minimum of the timescale of pay for a period of three years with cumulative effect; (2) loss of seniority; and (3) recovery of 25% of the*

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loss incurred by the Government to the tune of Rs. 74,341.89. i.e. Rs 18,585.47 on account of damage to the Gypsy in 18 (eighteen) equal monthly installments. Whereas reduction of timescale of pay with cumulative effect is a major penalty within the meaning of clause (v) of Rule 11 of the CCS Rules, loss of seniority and recovery of amount would come within the purview of minor penalty, as envisaged by clauses (iii) and (iii)(a) thereof. ***The disciplinary authority, therefore, in our opinion acted illegally and without jurisdiction in imposing both minor and major penalties by the same order. Such a course of action could not have been taken in law.***

13. However, there cannot be any doubt whatsoever that the disciplinary authority never intended to impose a minor penalty. The concession of the learned counsel appearing for the appellant before the High Court was apparently erroneous. It is now well settled that wrong concession made by a counsel before the court cannot bind the parties when statutory provisions clearly provide otherwise. (See Union of India v. Mohanlal Likumal Punjabi [(2004) 3 SCC 628. The penalty imposed upon the respondent, in our considered view, therefore, should be kept confined to the

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reduction to the minimum of the timescale of pay for a period of three years with cumulative effect. The effect of such a penalty has been considered by this Court in Shiv Kumar Sharma v. Haryana SEB [1988 Supp SCC 669 in the following terms: (SCC pp. 671-72, para 6)

"6. We are unable to accept the above contention. The penalty was imposed on 15.4.1968 and, as a result of which, he was deprived of the monetary benefit of one increment for one year only. The penalty by way of stoppage of one increment for one year was without any future effect. In other words, the appellant's increment for one year was stopped and such stoppage of increment will have no effect whatsoever on his seniority. Accordingly, the Board acted illegally and most arbitrarily in placing the juniors of the appellant above him in the seniority list and/or confirming the appellant in the post with effect from 1.12.1969, that is, long after the date of confirmation of the said Respondents 2 to 19. The question of seniority has nothing to do with the penalty that was

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imposed upon the appellant. It is apparent that for the same act of misconduct, the appellant has been punished twice, that is, first, by the stoppage of one increment for one year and, second, by placing him below his juniors in the seniority list.

14. The ratio of the said decision is applicable to the facts of the present case also." (emphasis supplied).

15. In the present case also, the disciplinary authority vide impugned order has imposed both major and minor penalties together, which is impressible and unsustainable in view of the afore-quoted judgment. Even, a perusal of the concurrence given by the Bihar Public Service Commission on the proposed punishment, it appears that though the Commission has mentioned about the major and minor punishment but has not given any reason for concurring with the proposed punishment which is an amalgamation of both major and minor punishment.

16. In view of the above, this Court has no option but to hold that the impugned order of punishment is not sustainable. Accordingly, the impugned order of punishment dated 22.12.2022, is modified to the extent that the major punishment i.e. withholding of five increments with cumulative

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effect shall be sustained in view of the gravity of charge against the petitioner and the minor punishment i.e. prohibition on promotion for five years from the due date is hereby quashed and set aside.

17. With the aforesaid observations and directions, this writ petition is allowed to the above extent.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	13.10.2025
Uploading Date	13.01.2026
Transmission Date	

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