

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 6227 of 2017

Dr. Ashok Kumar Das Son of Late Bhagwan Das, Resident of Kasim Bazar,
P.O. - Raj Mahal, Police Station - Raj Mahal, District- Sahebganj (Jharkhand)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal Husbandry and Fisheries Department, Government of Bihar, Patna.
2. The Principal Secretary, Animal Husbandry and Fisheries Department, Government of Bihar, Patna.
3. The Under Secretary to the Government, Animal Husbandry and Fisheries Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Suraj Narain Yadav, Advocate
For the Respondent/s : Mr. Saurabh Kumar, AC to SC-19

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 29-01-2026

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

2. The petitioner has filed the instant application praying for quashing the order contained in Memo no.56 dated 27.2.2017 issued under the signature of the Additional Secretary, Animal Husbandry and Fisheries Department, Government of Bihar, whereby the petitioner was dismissed from service.

3. The case of the petitioner in brief is that he was



appointed on 12.5.1983 as Touring Veterinary Officer and was posted at Sonva in West Singhbhum. In the year 2009, he was promoted and posted as the District Animal Husbandry Officer in Madhubani.

4. In between 22.4.2010 to 3.5.2010, audit inspection was carried out for the period March, 2008-09 to March, 2009-10 and various audit objections were pointed out with respect to the period prior to 31.7.2009 i.e., the date the petitioner joined. Further a complaint was made by one Meenakshi Pandey to the Principal Secretary, Animal Husbandry and Fisheries Department making 14 allegations against the employees posted in the office of the District Animal Husbandry Officer, Madhubani. Pursuant thereto a Three Men Committee was constituted under the Chairmanship of the Regional Director, Animal Husbandry, Muzaffarpur, who conducted the enquiry and submitted a report dated 9.8.2011, not giving any adverse finding against the petitioner.

5. An explanation was sought for from the petitioner by letter dated 23.9.2011 regarding the audit objection to which the petitioner replied on 16.1.2012. The Regional Director, Animal Husbandry, Darbhanga by his memo dated



17.2.2012 submitted compliance report of the audit objections with his recommendation to the Accountant General.

6. By order dated 31.3.2012 of the Director, Animal Husbandry, Bihar, a departmental proceeding was initiated against the Head Assistant and an Accountant in the Office of the District Animal Husbandry Officer. They were awarded the punishment of stoppage of three increments.

7. By order dated 27.4.2012 of the Special Secretary to the Animal Husbandry Department, the petitioner was placed under suspension in contemplation of a departmental enquiry to be proceeded under the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the CCA Rules'). By letter dated 25.6.2012, an explanation was sought for on the memo of charge in Form-ka to which the petitioner filed his reply on 16.8.2012. By order dated 5.12.2012, the Enquiry Officer and Presenting Officer were appointed and the petitioner was served with a copy of the memo of charge.

8. The enquiry proceeding started on 19.12.2012 wherein the petitioner filed his defence statement. The Enquiry Officer submitted his enquiry report to the Principal Secretary, Animal Husbandry and Fisheries Department on



29.2.2016. The petitioner was served with a copy of the enquiry report on 15.3.2016 and asked to submit his second written statement of defence. The petitioner submitted his reply. By order dated 27.2.2017 issued under the orders of Hon'ble the Governor, Bihar and under the signature of the Under Secretary to the Government, Animal Husbandry and Fisheries Department, the petitioner was dismissed from service. It is against this order of dismissal that the petitioner has preferred the instant writ application.

9. It is submitted by learned counsel appearing for the petitioner that the petitioner was scheduled to superannuate on 28.2.2017 when a day before his superannuation that he was dismissed by order dated 27.2.2017. It is submitted that the provisions contained in Rule 17(14) of the C.C.A. Rules were not followed. Neither the article of charges mention about the witnesses who are proposed to be examined in course of the enquiry nor any witness was examined in the enquiry. No document was marked exhibit or the contents thereof proved. Nevertheless the Enquiry officer placed his reliance on the documents in course of his enquiry. In these circumstances, the proceeding against the petitioner is one of no evidence.



10. Reliance has been placed by learned counsel for the petitioner on the judgment in the case of **State of Uttar Pradesh & Ors. vs. Saroj Kumar Sinha; (2010) 2 SCC 772**. It is submitted that the order impugned dismissing the petitioner from service be set aside and the writ application be allowed with all consequential benefits.

11. The application is opposed by learned counsel appearing for the respondents. It is submitted that the departmental enquiry against the petitioner was carried out in accordance with the procedure laid down under Rule 17 of the C.C.A Rules. The petitioner was afforded full opportunity to defend himself and there has been no violation of the principles of natural justice. He was given adequate opportunity of personal hearing as well as of filing his written defence. Learned counsel submits that several documents were produced during enquiry and the same find mention in the enquiry report. It is on the basis of these documents that the charges against the petitioner were proved. The charges are very grave, involve serious financial irregularities and of misappropriation of Government money. The very fact that the petitioner has not challenged the findings of the Enquiry Officer shows that the contents of the enquiry report has been



admitted. The petitioner was also given opportunity of filing a second show cause after having gone through the enquiry report. The petitioner submitted his reply to the second show cause on 7.4.2016 and after considering the same, he was inflicted with the punishment of dismissal. Learned counsel submits that there is no illegality in the order impugned, no merit in the instant application and as such the same be dismissed.

12. Heard learned counsel for the petitioner and learned counsel for the respondents. Perused the material on record.

13. The relevant facts in brief are that the petitioner who at the relevant time was posted as the Animal Husbandry Officer, Madhubani was proceeded against in a departmental proceeding conducted under the C.C.A Rules.

14. The charge against the petitioner was that pursuant to an inspection having been done of the District Animal Husbandry Officer, Madhubani for the period April, 2008 to March, 2010, an enquiry was conducted and a report submitted wherein various objections were raised. As per the charge, the allegations involved payment of Rs. 19.04 lakhs to irregularly retained employees, difference in accounting of Rs.



28.32 lakhs between the accounts register and the bank accounts, loss to the State exchequer to the tune of Rs. 3.46 lakhs, irregular withdrawal of Rs.1.82 lakhs etc., the objections in all relating to Rs.207.32 lakhs. Pursuant to a complaint by Smt. Meenakshi Pandey, an enquiry was got conducted and the Regional Director, Animal Husbandry, Darbhanga submitted his report dated 25.3.2011. Subsequently another Three Member Committee also carried out an inspection and submitted their report on 9.8.2011. The charge further stated that the District Magistrate sent a letter dated 16.8.2011 as also an enquiry report dated 5.9.2011 addressed to the Principal Secretary, Vigilance Department holding that most of the charges had been proved.

15. The petitioner submitted his reply to the memo of charge in the departmental proceeding.

16. The Enquiry Officer submitted his report dated 29.2.2016 finding charge no.1 to be partly proved and with respect to charge no.2, it was observed that giving benefit of doubt, the same was not proved.

17. The petitioner was served with a copy of the enquiry report to which he submitted his reply. Thereafter the respondents came out with an order/resolution contained in



memo no.56 dated 27.2.2017 under the signature of the Additional Secretary, Animal and Fisheries Department, Government of Bihar dismissing the petitioner from service.

18. A perusal of the memo of charge in Form-*ka* brought on record as Annexure-11 to the writ application would show that the charges mentioned therein is sought to be proved by the 11 documents mentioned in the 4th column of *Prapatra-ka* under the heading 'evidence'. It would be important to note here that there is no mention of any witness who is proposed to be examined in support of the charges.

19. On enquiry of the contents of the enquiry report dated 29.2.2016, it further transpires that the Enquiry Officer has taken into consideration the 11 documents which were mentioned in *Prapatra-ka*. In addition to these, three more documents find mention in the enquiry report. However on perusal of the entire enquiry report, it transpires that not a single witness was examined and thus none of the documents on which the Enquiry Officer has placed reliance in coming to the conclusion that charge no.1 was partly proved, has either been marked exhibit or the contents thereof proved by leading oral evidence.

20. In the case of **Roop Singh Negi vs. Punjab**



National Bank & Ors.; (2009) 2 SCC 570, the Hon'ble

Supreme Court 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.”

21. In the case of **State of Uttar Pradesh & Ors. vs. Saroj Kr. Sinha; (2010) 2 SCC 772**, the Hon'ble Supreme Court held as follows :-

“28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as



to whether the un rebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.

29. *Apart from the above, by virtue of Article 311(2) of the Constitution of India the departmental enquiry had to be conducted in accordance with the rules of natural justice. It is a basic requirement of the rules of natural justice that an employee be given a reasonable opportunity of being heard in any proceedings which may culminate in punishment being imposed on the employee.*

30. *When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service.*

.....

33. *As noticed earlier in the present case not only*



the respondent has been denied access to documents sought to be relied upon against him, but he has been condemned unheard as the inquiry officer failed to fix any date for conduct of the enquiry. In other words, not a single witness has been examined in support of the charges levelled against the respondent. The High Court, therefore, has rightly observed that the entire proceedings are vitiated having been conducted in complete violation of the principles of natural justice and total disregard of fair play. The respondent never had any opportunity at any stage of the proceedings to offer an explanation against the allegations made in the charge-sheet.”

22. Taking into consideration the ratio of the two judgments, relevant portions of which have been reproduced herein above together with the facts of the instant case wherein, in course of the enquiry not a single witness was examined, none of the 11 documents relied on by the management having been exhibited or the contents thereof proved by leading any oral evidence, it is a case of no evidence against the petitioner.

23. Thus, in view of the facts and circumstances of the case, the order of punishment of dismissal contained in memo no.56 dated 27.2.2017 issued under the signature of the



Under Secretary, Animal Husbandry and Fisheries
Department, Government of Bihar cannot be sustained and is
hereby set aside.

24. The writ application is allowed with all
consequential benefits.

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	N/A
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Transmission Date	

