

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2534 of 2021

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Saroj Kumar Manjhi son of Late Jamuna Manjhi resident of Village-
Bhairopur, P.S.- Doriganj, District- Saran at Chapra, then working as
Draftsman under the Land Acquisition Office, Gopalganj, District- Gopalganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Land Reforms
Department, Bihar, Patna.
2. The Additional Chief Secretary, Government of Bihar, Patna.
3. The Divisional Commissioner, Saran at Chapra.
4. The District Magistrate, Gopalganj.
5. The Land Acquisition Officer, Gopalganj.
6. The Additional Collector, Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siddharth Harsh, Advocate
For the Respondent/s : Md. Khurshid Alam Aag-12

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 15-12-2021

Heard learned counsels for the respective parties.

In the instant petition, petitioner has prayed for the
following reliefs:

*“(a) For issuance of an appropriate writ(s),
order(s), direction(s) for quashing the Prapatra-K
dt. 04/10/2017 issued by the Commissioner, Saran
Division, Chapra initiating departmental
proceeding against the petitioner.*

*(b) For issuance of appropriate writ(s), order(s),
direction(s) for quashing of the order dt.
24.12.2018 contained in Memo No. 2232 dated
26/12/2018 passed and issued by the
Commissioner, Saran Division, Chapra whereby
and where-under petitioner has been dismissed
from service, and as a consequence petitioner be
reinstated on his post alongwith all consequential
benefits of service.*



(c) For issuance of appropriate writ(s), order(s), direction(s) for setting aside order dated 26/06/2020 contained in Memo No. 919 passed by the Additional Chief Secretary, Government of Bihar where-under and whereby the Additional Chief Secretary has rejected the appeal of the petitioner.

(d) And/or for issuance of any other order(s)/direction(s) for which petitioner may be found entitled to in the facts and circumstances of the case.”

On 24.11.2021, the following order was passed:

“Learned State Counsel is hereby directed to furnish original copy of the show cause notice, article of charges, statement of imputatiion, list of documents and list of witnesses in respect of invoking Rule 17 of Bihar Governemnt Servants (Classification, Control & Appeal) Rules, 2005 on the next date of hearing.

Re-list this matter on 08.12.2021.”

Today, learned counsel for the State has secured the records and he has found that there is non-compliance to Rule 17 of Bihar Government Servant Classification Control and Appeal Rules, 2005 (For short C.C.A Rules, 2005).

In the light of these facts and circumstances, the petitioner has made out a case. Accordingly, impugned orders dated 04.10.2017 and 26.12.2018 are set aside.

It is learnt that the present proceedings is for the second time. The Disciplinary Authority has failed to follow the C.C.A Rules, 2005. The present case may be taken note of by the Chief Secretary, State of Bihar as to why time and again, disciplinary



authorities are not adhered to Rules, 2005 in respect of initiating and completion of disciplinary proceedings. This Court has come across in many such cases where there is violation of Rule 17 of CCA Rules, 2005. It is suggested that the necessary clause shall be incorporated in the Rules, 2005 for non-compliance of any provisions of Rules, 2005 necessary action shall be taken against such of those disciplinary and other authorities. In other words, necessary action is required against the disciplinary and other authorities. In that event only, the Disciplinary Authorities would be alert and adhere to the Rules, 2005 wherever it is warranted. The same shall be taken note of and necessary proposal be given to the State Government to incorporate the penal action against such of those disciplinary authorities and other authorities in the Rules, 2005, for penal action in the event of violation of any provisions of the Rules, 2005.

With the above observations, petition stands allowed.

The enquiry shall be completed from the defective stage within a period of three months from the date of receipt of this order.

The monetary benefits and further proceedings shall be decided in terms of the Apex Court decision *M.D. ECIL Vs. B.*



Karunakar and ors. read with Coal India Ltd. Vs. Ananta Saha reported in (2011) 5 SCC 142, in para 42 which reads as under:

“42. We could not find any material on record on the basis of which the High Court could be justified in recording a finding of fact that disciplinary proceedings had been initiated against the delinquent with predetermined mind only to punish him. In view of the fact that enquiry officers have consistently found the delinquent guilty of committing a serious misconduct, such an observation was totally unwarranted, particularly in view of the fact that there is nothing on record to substantiate such an averment made by the delinquent.”

In the above observations, the writ petition stands allowed.

Registry is hereby directed to forward copy of this order for taking further steps in the matter.

Compliance shall be reported to the Registry before 01.07.2022.

(P. B. Bajanthri, J)

Gaurav Kumar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

