

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3069 of 2011

- 1.1. Dr. Aurangzeb Alam, Son of late Dr. Mujibur Rahman, Resident of Village and P.S. Nanpur, District- Sitamarhi.
- 1.2. Abdullah Tarique, Son of late Dr. Mujibur Rahman, Resident of Village and P.S. Nanpur, District- Sitamarhi.
- 1.3. Afroz Alam, Son of late Dr. Mujibur Rahman, Resident of Village and P.S. Nanpur, District- Sitamarhi.
- 1.4. Mashokoor Alam, Son of late Dr. Mujibur Rahman, Resident of Village and P.S. Nanpur, District- Sitamarhi.
- 1.5. Afsana Khatoon, Wife of Nezamuddin Resident of Village Tisi, P.S. and District Madhubani.
- 1.6. Irfana , Wife of Khursheed Alam, Resident of Village- Sarai, Sattar Khan, P.S. Laheria Sarai, District- Darbhanga.
- 1.7. Imrana wife of Anwar Hussain, Resident of Village- Bastwara, P.S. Simri, District- Darbhanga.
- 1.8. Shabana Wife of Tanweerul Hasan, Resident of Village Sarai Sattar Khan, P.S. Laheria Sarai, District- Darbhanga.
- 1.9. Rabeya Khatoon , Wife of Shamim Akhtar, Resident of Village and P.S. Nanpur, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Secretary, Health Department, Government of Bihar, Patna.
3. The Joint Secretary, Health Department, Government of Bihar, Patna.
4. The Additional Secretary, Department of Indigenous Medical Bihar, Patna.
5. The Deputy Secretary-Cum-Director, Department of Indigenous Medical-Cum-Inquiry Officer, Bihar, Patna.
6. The District Magistrate, Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sarvadeo Singh, Advocate
For the Respondent/s	:	Mr. Sanjeet Kr. Singh, AC to AAG 6, Incharge AAG 5

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

16 31-07-2024 The petitioners' counsel could not apprise this
Court to the extent that substitution application was allowed



on 07.05.2019 itself. Today he is pointing out that it was allowed and to that effect page 1(i) has been filed, some corrections have been made, however, it has not been attested.

2. Be that as it may, on 12.07.2024 following order was passed :

“In the instant petition, petitioner has prayed for the following relief(s):-

“For issuance of appropriate writ/writ, order/orders, for quashing the order dated 22.10.2011 bearing Memo NO. 1032 issued under the signature of Respondent No. 2 by which the Respondent No. 2 confirm the earlier order and rejected the representation filed by the petitioner and further for quashing the order dated 13.06.2005 bearing Memo No. 521 issued under the signature of Respondent No. 3 by which the Respondent No. 3 dismissed the petitioner from service without considering the fact that Inquiry Officer, without examining any witnesses and without any material submitted the report and further for any other relief/reliefs for which the petitioner is entitled in fact and circumstances of the case.”

2. Petitioner while working as Indigenous Medical Officer was subjected to disciplinary proceedings in framing of charges on 10.10.2002. He had submitted explanation on 02.12.2002. It was



not satisfied by the disciplinary authority. In the result, he had proceeded to appoint inquiring officer and presenting officer. In the inquiry, it was held that charges level against the petitioner was proved. On receipt of inquiring officer report disciplinary authority proceeded to issue a second show cause along with inquiring officer report. Petitioner has not apprised this Court as to whether he has filed his reply to the second show cause notice and inquiring officer report, the same is not forthcoming. Consequently, the penalty order of dismissal was passed on 13.06.2005. He had filed appeal and it was rejected on 05.06.2007/22.12.2010. Thus, petitioner has filed this petition.

3. Learned counsel for the petitioner submitted that charge-memo is not in accordance with the provision of law to the extent that statement of imputation, list of documents and witnesses have not been provided. Therefore, there are procedural irregularities from the inception. It is also submitted that of evidence has not been exitself not been examined to prove the charge.

4. Per contra, learned counsel for the respondent could not apprise this Court whether the aforementioned lacunaes are true or not? On the other hand, he submitted that list of witnesses were stated to have been provided in the inquiry proceedings and not at the time of framing of charges.

5. Heard learned counsel for the respective parties.



6. *Learned counsel for the respective parties have not disputed that petitioner was not subjected to disciplinary proceedings and it was concluded in imposition of dismissal from service. There are procedural irregularities insofar as framing of charges and, thereafter, not providing statement of imputation, list of documents and list of witnesses so also complainant has not been examined in the matter.*

7. *Taking note of these legal infirmities, petitioner has made out a case so as to interfere with the penalty order dated 13.06.2005 and appellate authority's order dated 05.06.2007/22.12.2010 and they are set aside. Accordingly, the present writ petition stands allowed.*

8. *At this stage, learned counsel for the petitioner submitted that he has filed interlocutory application for substitution of legal heirs of the petitioner.*

9. *Learned counsel for the respective parties are hereby directed to file their objections, if any, before the next date of hearing.*

10. *Re-list this matter on 26.07.2024.”*

3. Taking note of the earlier order dated 12.07.2024, the writ petition stands allowed in terms of the order dated 12.07.2024. The concerned respondent is hereby directed to disburse all monetary benefits which is due to the deceased employee to his legal heirs after due identification of the respective parties within a period of four months from



the date of receipt of copy of this order.

(P. B. Bajanthri, J)

GAURAV S./-

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