

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.516 of 2022

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Md. Jamaluddin Ansari Son of Ali Haider Ansari, Resident of Mohalla - Hinduni Tola, Azad Nagar, P.O. - Phulwari Sharif, P.S. - Phulwari Sharif, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Home, Government of Bihar, Patna.
2. The Additional Secretary, General Administration Department, Government of Bihar, Patna.
3. The Inspector General, Prisons and Correctional Service, Home Department (Prisons), Bihar, Patna.
4. The Director, Bihar Institute of Correctional Administration, Vaishali at Hajipur.
5. The Special Secretary - Cum - Inquiry Officer, Minor Water Resource Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ali Muqtadin Ahmad, Advocate Mr. Shailesh Kumar, Advocate
For the Respondent/s	:	Mr. Advocate General Mr. Sanjiv Kumar, AC to AG

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 08-12-2025

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

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

*For quashing the order
issued vide Memo No. 16/विविध-07-
05/19 General Administration 4914,*



Patna dated 13.04.2021 (Annexure-11) by the Respondent No. 2 whereby and where under the petitioner has been imposed with the following punishment :-

a. Withholding of two increments of pay with cumulative effect.

b. Censure for the period of occurrence (2019-20).

ii. For quashing the order bearing Memo No. 16/ विविध-07-05/19 General Administration 14179, Patna dated 30.11.2021 (Annexure-14) whereby and whereunder the review petition dated 18.08.2021 filed by the petitioner against the punishment order dated 13.04.2021 has been rejected.

iii. The Petitioner further prays for issuance of writ/ writs, order/orders, direction/directions for the relief/reliefs which the Petitioner is entitled to in the fact and circumstances of the present case.

3. Learned counsel for the petitioner submits that the present case is the result of professional jealousy in the office, between the staff members. He further submits that the



petitioner became the scapegoat for a work which he had done unintentionally. He further submits that in the findings it has come that he has been punished only and only due to the reason that he had sent a staff member for the mobile phone of female Staff-A, but the said staff, due to the unavailability of female Staff-A, demanded the mobile phone of female Staff-B, for which the petitioner had already excused then and there. Even then, the higher authority has taken action and imposed punishment for the same.

4. He further submits that, according to him, the person who made the allegation against the petitioner, as mentioned in the charge memo, has not been examined or cross-examined. He further submits that the sole basis of his punishment is the recording made on another mobile phone, which was subjected to a forensic laboratory report in which his voice was attempted to be proved. He further submits that both minor and major punishments were imposed together.

5. He further submits that the alleged wrong is not of such high gravity that he should have been imposed major punishment, and this aspect has neither been considered by the disciplinary authority nor by the appellate authority. He further submits that the wrong alleged to have been committed by the



petitioner and the punishment imposed are excessive in nature, and, therefore, a sympathetic view may be taken into consideration as the petitioner is at recurring loss in his career.

6. Counsel further relied on the judgment dated 28.07.2025 passed in CWJC No. 23825 of 2013 and submits that this judgment has been passed by this Court relying on the judgment in *Union of India & Anr. v. S.C. Parashar*, reported in (2006) 3 SCC 167, and submits that the ratio laid down in the case is that major and minor penalties cannot be imposed simultaneously, and therefore, submits that the writ petition be allowed in his favour.

7. Learned counsel for the respondent submits that the order passed by the disciplinary authority as well as by the appellate authority is completely in accordance with law. He further submits that there is no procedural mistake nor any violation of natural justice. He further submits that the punishment imposed is also not excessive and is a balanced one.

8. After going through the records of this case in comparison to the judgment on which the counsel for the petitioner relied, the relevant paragraph of the said judgment, i.e., para 8 of *Union of India & Anr. v. S.C. Parashar (supra)*, is most relevant, which states as follows:-



“8. It is not in dispute that Sub-rules (iii) and (iii) (a) of Rule 11 provide for minor penalties whereas Clause (v) thereof provides for major penalty. Indisputably the procedure adopted in the departmental proceeding was for imposition of a major penalty. It is trite that even in a case where the procedure followed in the departmental proceedings for imposition of a major penalty, having regard to the facts and circumstances of a case, minor penalty can also be imposed. The question is as to whether the penalty imposed by the President upon taking into consideration the report filed by the Enquiry Officer, was under Clauses (iii) and (iii) (a) or Clause (v) of Rule 11 of the CCS Rules.”

9. Here, in the case on which the counsel for the petitioner relied, the enquiry officer had exonerated the petitioner, but in the present case the enquiry officer has not exonerated the petitioner, rather, he has held him guilty only and only to a very limited extent, namely, that the petitioner had demanded the personal mobile phone through another person from the complainant. However, the witness, Mr. Bindeshar



Paswan, himself submits that the mobile phone which was said to have been demanded by the petitioner from the officer was not actually demanded by the petitioner rather, due to the absence of the said officer, he himself demanded it from the complainant. It is basically a mistake on the part of Bindeshwar Paswan, a supporting staff of the office.

10. In light of the facts and circumstances, it transpires to this Court that there is no direct allegation against the petitioner that he has committed such wrong for which he has been given the major penalty, and it is for this reason this Court is of the firm view that the major penalty, by virtue of the charge, is extremely excessive. Therefore, the major penalty is hereby modified to withholding of two increments of pay only for two years, and the cumulative effect is hereby removed from the punishment.

11. It is made clear that the period of censure has already been crossed, therefore, this Court has not given its finding on that part.

12. It is made clear that such observation shall not come in the way of the petitioner's promotion and payment of his arrears in the calculation of his eligibility to receive payment, which has not been made earlier due to the major



penalty.

13. Accordingly, this writ petition is hereby
disposed off with the aforesaid modification.

(Dr. Anshuman, J.)

Aman Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.12.2025
Transmission Date	NA

