

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 1638 of 2024

Manish Prajapati Son of Ram Dayal Prasad, Resident of village- Paliya, P.S. -
Rajpur, District - Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Home Department, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Under Secretary, Home (Police) Department, Bihar, Patna.
4. The Additional Director General of Police (Budget Welfare and Appeal) Bihar, Patna.
5. The Additional Director General of Police-cum-Director, Bihar Police Academy, Rajgir.
6. The Deputy Inspector General Of Police cum-Deputy Director, Bihar Police Academy, Rajgir.
7. The Assistant Director (Administration) Bihar Police Academy, Rajgir.
8. The Superintendent of Police-cum-In-charge Assistant Director, Bihar Police Academy, Rajgir, Camp-Bihar Special Arms Police Force-04, Dumraon.
9. The Assistant Director(Training) Bihar Police Academy, Rajgir.
10. The Deputy Superintendent of Police, Bihar Police Academy cum Enquiry Authority, Rajgir
11. The Superintendent of Police, Kishanganj.

... .. Respondent/s

WITH

Civil Writ Jurisdiction Case No 1111 of 2024

Skant Kumar Gupta Son of Nand Lal Gupta, Resident of village- Chailahan,
P.S.- Banjaria, District- East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Additional Chief Secretary, Home (Police) Department, Bihar, Patna.
4. The Under Secretary, Home (Police) Department, Bihar, Patna.
5. The Additional Director General of Police, (Budget, Welfare and Appeal) Bihar, Patna.
6. The Additional Director General of Police -cum- Director, Bihar Police Academy, Rajgir.



7. The Deputy Inspector General of Police -cum- Deputy Director, Bihar Police Academy, Rajgir.
8. The Assistant Director (Administration), Bihar Police Academy, Rajgir.
9. The Superintendent of Police -cum- In-charge Assistant Director, Bihar Police Academy, Rajgir, Camp- Bihar Special Arms Police Force- 04, Dumraon.
10. The Assistant Director (Training), Bihar Police Academy, Rajgir.
11. The Deputy Superintendent of Police, Bihar Police Academy -cum- Enquiry Authority.
12. The Superintendent of Police, Katihar.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 1638 of 2024)

For the Petitioner/s : Mr.Vinay Ranjan

For the Respondent/s : Mr.Government Pleader (5)

(In Civil Writ Jurisdiction Case No. 1111 of 2024)

For the Petitioner/s : Mr.Vinay Ranjan

For the Respondent/s : Mr.Government Pleader 23

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

CAV JUDGMENT

Date : 03-03-2025

Since common issues are involved in these writ petitions, therefore, both these writ petitions are being disposed of by this common order.

2 Vide Memo No 1411 dated 05.04.2022, which has been communicated to the petitioner Manish Prajapati of CWJC No 1638 of 2024 through the Superintendent of Police, Kishanganj by the Assistant Director (Training), Bihar Police Academy, Rajgir vide its Memo No 1424 dated 06.04.2022 whereby and where under the petitioner Manish Prajapati has been dismissed from the services and in CWJC No 1111 of 2024, petitioner Skant Kumar



Gupta has also been dismissed as per the order contained in Memo No 1410 dated 05.04.2022 which has been communicated to him through Superintendent of Police, Katihar by the Assistant Director (Training), Bihar Police Academy, Rajgir vide his Memo No 1423 dated 06.04.2022. Against the said order of termination, both the petitioners preferred departmental appeal as well as memorial which have also been dismissed. Hence, both these petitions have been preferred by the petitioners for quashing the order of termination, order passed by the appellate authority and order passed by the authority in the memorial.

3 Brief facts of both the petitions are that the petitioner Manish Prajapati and Skant Kumar were selected for the post of Police Sub Inspector and joined their services on 01.06.2019. On 04.02.2021, they were sent to Training Center, Bihar Special Armed Police No 4, Dumraon for basic training. After completion of training, both have appeared for outdoor examinations/tests and also were declared successful. Internal examination was scheduled from 31.05.2021 to 14.06.2021. Allegedly two days prior to the scheduled examination when the CCTV camera was being installed, both the petitioners and one another person allegedly tampered the camera and on that basis, both the petitioners were debarred from appearing at the final examination.



Explanation was called for from the petitioners. They submitted their response to the show cause. However, without considering the response submitted by the petitioners herein, a charge memo was served upon them. Enquiry officer as well as presenting officer were appointed. During the course of enquiry, in the matter of Manish Prajapati, 5 witnesses were examined by the Department and in the matter of Skant Kumar Gupta, 7 witnesses were examined by the Department. Subsequently, the enquiry officer, on the basis of material available on record, found the charges proved against both the petitioners in both the separate enquiry which was conducted against them. On the basis of enquiry report, the disciplinary authority issued second show cause notice to the petitioners in both the cases and subsequently passed the order of dismissal in both the cases which has been assailed by way of departmental appeal as well as memorial but the same also stood dismissed.

4 Learned counsel for the petitioners, in both the cases, submits that in the charge memo, no list of witnesses were prepared and supplied to the petitioners. Therefore, there is clear cut violation of **Rule 17 (3)** of the ***Bihar Government Servants (Classification, Control & Appeal) Rules, 2005*** (for brevity, ***the 2005 Rules***). He further submits that without citing any witness in



the charge memo, the enquiry officer recorded the statements of 5 – 7 witnesses respectively in both the enquiry proceedings. The material witness, who was the operator of the CCTV, was not made witness nor his statement was taken by the enquiry officer. Therefore, without recording the statement of the operator of CCTV, it cannot be said that the petitioners had tampered the camera of CCTV. He further submits that all the witnesses, who have been examined, had stated that they had not seen the petitioners tampering the CCTV or even touching the same. Thus, allegation has not been proved and in fact, this is a case of no evidence. Reliance has been placed by the counsel in the case of ***Roop Singh Negi -Versus- Punjab National Bank & Others***, reported in ***(2009) 2 Supreme Court Cases 570***.

5 Learned counsel further submits that both the petitioners categorically stated in their reply to the show cause that they have not touched the CCTV camera and apart from them, there were other persons who were also present but the defence taken by the petitioners has neither been considered by the disciplinary authority nor by the appellate authority. Therefore, according to the counsel, on these grounds, the order passed by the disciplinary authority as well as the appellate authority, as mentioned herein above, are liable to be set aside.



6 Learned counsel for the respondents opposes the argument raised by the learned counsel for the petitioner and submits that there is sufficient material on record on the basis of which the enquiry officer rightly arrived at the conclusion that the petitioners are the persons who tampered the CCTV camera. Hence, their services have rightly been terminated by the competent authority.

7 I have heard the learned counsel for the parties and perused the orders, as referred to herein above in both the cases and other materials available on record.

8 With regard to the first ground raised by the learned counsel for the petitioners in both the cases, at this juncture, it would be useful to reproduce the provisions of Rule 17 (3) of the 2005 Rules which reads thus:

“17. Procedure for imposing major penalties.-

(1)

(2)

(3) Where it is proposed to hold an inquiry against a government servant under this Rule, the disciplinary authority shall draw up or cause to be drawn up-

(i) the substance of the imputations of misconduct or misbehaviour as a definite and distinct article of charge;



(ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain-

(a) a statement of all relevant facts including any admission or confession made by the Government Servant;

(b) a list of such document by which, and a list of such witnesses by whom, the articles of charge are proposed to be sustained.”

9 Perusal of the above Rule, it reveals that along with the charge memo, there must be list of documents and the list of witnesses but perusal of the charge memo in both the petitions, it transpires that no list of witnesses were prepared nor provided to the petitioners. This fact has also been admitted by the respondents in their counter affidavit. Thus, it is clear that in both the cases, there is violation of Rule 17 (3) of the 2005 Rules.

10 With regard to the second ground raised by the learned counsel for the petitioners is concerned, undisputedly the operator of the CCTV camera has not been examined by the Department nor he was cited as a witness. The witnesses, who were examined by the enquiry officer, have categorically stated that such CCTV was shown to them by the operator Rahul Kumar and that according to the CCTV footage, both the petitioners herein were seen in the footage. None of the witnesses have stated that they have seen the petitioners tampering the CCTV camera.



The statement of the witnesses further shows that along with these petitioners, some other trainee officials were also present in the room but none of the trainee officials were cited nor examined by the Department for proving its case. The operator of the CCTV camera Rahul Kumar and other trainee officials, who were present inside the room, were the witnesses who can only prove the fact that the CCTV camera was tampered and it was tampered by the petitioners herein but they have not been examined for the reasons best known to the Department. Only on the basis of the statement made by the witnesses that in the CCTV footage, the petitioners were seen, the enquiry officer arrived at the conclusion that the CCTV footage was tampered by the petitioners herein which is not in accordance with the evidence available on record. The evidence available on record only shows that the petitioners were present inside the room along with other officials and they were seen in the footage of CCTV camera. Merely on this basis, it cannot be said that they were the persons who tampered the CCTV installed in the room. This ground has been raised by the petitioners at all stages but it has not been considered by any authority.

11 In the case of *Roop Singh Negi (supra)*, the Hon'ble Apex Court observed at paragraph 23 as follows:

“23. Furthermore, the order of the disciplinary authority as also the appellate



authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the criminal court on the basis of selfsame evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the enquiry officer apparently were not supported by any evidence. Suspicion, as is well known, however, high may be, can under no circumstances be held to be a substitute for legal proof.”

12 In the light of above and on the examination of the facts, it reveals that the most important witness, i.e., the CCTV operator Rahul Kumar and other trainee officials, who were present in the room at the relevant time, have not been examined by the Department to prove its case. There is no evidence available on record which shows that the petitioners herein were the persons who tampered the CCTV. The footage only shows that the petitioners were seen in the room. Only on this basis, it cannot be said that the petitioners were the persons who tampered the CCTV.



13 For the reasons and discussions aforementioned and in view of legal position, as discussed herein above, the entire disciplinary proceedings, in both the petitions resulting in the orders impugned, is held illegal.

14 Accordingly, the enquiry report dated 05.03.2022 in both the cases, the order of punishment dated 05.04.202 in both the petitions, the appellate order dated 06.06.2023 passed in both the petitions and the order dated 09.01.2024 passed in the memorial are quashed and set aside.

15 As a consequence, the petitioners, in both the cases, are directed to be reinstated on their post with all consequential benefits which should be provided to them within a period of three months from the date of receipt/production of a copy of this order.

16 The writ petitions are, accordingly, allowed.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	11.02.2025
Uploading Date	03.03.2025
Transmission Date	NA

