

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3549 of 2024

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Shyamakant Prasad son of Late Shivji Prasad, Resident of village Sakrar Bazaar, Police Station Ramgarhwa, District East Champaran, at present resident of mohalla Kamalnath Nagar, P.S. Town, Bettiah, District West Champaran

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Revenue and Land Reforms Department, Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Govt. of Bihar, Patna.
3. The Director, Land Acquisition cum Joint Secretary, Revenue and Land Reforms Department, Patna.
4. The Collector, West Champaran at Bettiah
5. The Additional Collector, West Champaran at Bettiah
6. The Accountant General, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Singh
For the Respondent/s	:	Mr. Sarvesh Kumar Singh
		AAG-13
For A.G.	:	Mr. Vivekanand Kumar

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 10-07-2025

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

2. This petition has been preferred by the petitioner
seeking following reliefs:

(i) For issuance of appropriate writ/writs, order/orders in the nature of certiorari for quashing the order contained in memo no. 2205 dated 28.12.2023 issued by respondent no. 3,



whereby and whereunder the punishment of hundred per cent pension deduction/forfeiture has been awarded to the petitioner in the departmental proceeding under Section 139 (Ga) of Bihar Pension Rules, 1950 on non-est grounds, in arbitrary manner.

(ii) For quashing the enquiry report dated 29.05.2023 submitted by respondent no. 5, whereby the enquiry officer has proved all the charges against the petitioner in a complete illegal, arbitrary and unauthorized manner.

(iii) In consequent thereof, for issuance of writ/writs of mandamus commanding the respondent authorities to grant entire pension with effect from the date of superannuation.

(iv) For any other order/orders which the petitioner may found to be entitled in the facts and circumstances of the case.

3. The brief facts of the case is that the petitioner joined to the post of Circle Officer at Sadar Bettiah, West Champaran on 10.08.2020. On the basis of the complaint made by one Vinod Kumar Gupta, Vigilance Case No. 45 of 2021 for the offences punishable under Section 7(a) of the Prevention of Corruption Act, 1988 has been registered against the petitioner.



On 02.11.2021, the petitioner was trapped and arrested by the Vigilance Investigation Bureau. It is alleged that at the time of trap, petitioner was taking bribe of Rs. 250000/- from the said complainant Vinod Kumar Gupta on 02.11.2021. The petitioner was suspended on 27.12.2021 with effect from 02.11.2021. Subsequently, the charge memo was also issued to the petitioner on 17.01.2022. Two charges were levelled against the petitioner. During pendency of the departmental enquiry, on 31.01.2022 the petitioner superannuated from the services. After issuance of show cause to the petitioner, the enquiry officer and presenting officer were appointed. The petitioner also submitted his explanation before the enquiry officer. The enquiry officer submitted his enquiry report (Annexure-P/5) vide its Memo dated 29.12.2023. The second show cause issued to the petitioner by the disciplinary authority, which was replied by him, thereafter, vide impugned order dated 28.12.2023 (Annexure-P/8) petitioner has been punished awarding 100% pension forfeiture/deduction under Rule 139 (c) of the Bihar Pension Rules, 1950. Since the above order passed by the respondent no.3 under the order of the Governor of Bihar, there is no appellate authority and therefore, present writ petition has been preferred by the petitioner.



4. Learned counsel for the petitioner submits that though in the charge memo, two witnesses were cited by the department, however, during the pendency of enquiry, none of the witnesses were examined by the enquiry officer and the charges were found proved only on the basis of submission made by the presenting officer. He further submits that the documents, which has been relied by the department in the departmental proceeding, were also not tendered by any of the witnesses. Virtually, it is a case of no evidence and without considering the reply to the second show cause, the disciplinary authority passed the impugned order. Reliance has been placed by the counsel to the judgment passed by the Hon'ble Supreme Court in the case of ***Roop Singh Negi versus Punjab National Bank & Others*** reported in ***2009(2) SCC 570*** and in the case of ***State of Uttar Pradesh & Others Vrs. Saroj Kumar Sinha*** reported in ***2010 (2) SCC 772***.

5. Learned counsel for the State opposes the arguments raised by the counsel for the petitioner and submits that taking into consideration the entire material placed before the enquiry officer, the authority has rightly arrived at the conclusion that the charges leveled against the petitioner are duly proved.



6. Heard learned counsels appearing for both the parties and perused the records annexed with the petition as well as counter affidavit and rejoinder.

7. Bare perusal of the charge memo clearly shows that along with the charge memo two documents were relied by the department as well as two witnesses Rajendra Prasad Gupta and Sanjay Kumar were cited as a departmental witnesses. Perusal of the enquiry report dated 29.05.2023 (Annexure-P/5) further shows that during course of enquiry, none of the witnesses were examined by the enquiry officer nor any of the document as relied by the department has been tendered by any of the witness. The enquiry report further shows that only on the basis of opinion given by the presenting officer, the enquiry officer arrived at the conclusion that the charges levelled against the petitioner were duly proved. Further perusal of the reply to the show cause submitted by the petitioner (Annexure-P/7) shows that all these facts were mentioned in his show cause even after that the disciplinary authority while passing the impugned order has not bothered to consider those grounds/objections and passed the impugned order.

8. Taking into consideration the above, this Court finds that this is a case of no evidence. Thus, on this ground



only the entire enquiry report as well as impugned orders are liable to be set aside.

9. Accordingly, the petition is allowed. The impugned orders dated 28.12.2023 (Annexure-P/8) and 29.05.2023 (Annexure-P/5) are hereby set aside.

10. The petitioner is entitled to get all retiral benefits applicable to him which will be done within a period of three months from today.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.07.2025
Transmission Date	NA

