

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 3907 of 2025

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Ajay Kumar Thakur Son of Late Devendra Nath Thakur, Resident of Village Thakur Gangati, District - Godda, (Jharkhand), at present residing at Flat No. 75, Block No. 06, Arya Kumar Road, Rajendra Nagar, Dinkar Golamber, P.S. Kadamkuan, Town and District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner cum Appellate Authority, Gandhi Maidan, Patna.
3. The District Magistrate, Patna.
4. The Additional Collector cum Departmental Enquiring Officer, Patna.
5. The Treasury Officer, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Akhilesh Dutta Verma
For the Respondent/s : Mr.Standing Counsel (5)

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 09-05-2025

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

“... .. For issuance of a writ in the nature of certiorari for quashing the order dated 05.11.2024 passed in Service Appeal No 116 of 2015 passed by Appellate Authority Respondent No 2 the Divisional Commissioner, Patna vide (Annexure P/17) and also for quashing of order dated 17.02.2014 passed by Respondent No 3 Disciplinary Authority, District Magistrate, Patna vide Memo No 642 (Annexure 10) whereby the petitioner has been terminated from his service on the basis of finding of departmental enquiry and for an appropriate direction/order/command directing the



respondents to reinstate the petitioner in his service and also for all the consequential benefits or for any other order or orders as may deem fit and proper in the facts and circumstances of the case.”

2 Facts of the case are that the petitioner was appointed as Assistant Accountant in the Bihar State Food and Civil Supplies Corporation Limited, Patna and joined his services on 29.07.1986 at Patna. Thereafter, he joined in September, 1996 as Treasury Officer, Buxar on deputation. Subsequently, he was transferred to Secretariat Treasury, Sinchai Bhawan, Patna in the month of January, 2000. Finally, his cadre was absorbed in Collectorate Cadre, Patna on 08.03.2006. During his posting at Patna Collectorate Treasury, he was made a victim in the trap case resulting in the institution of Vigilance PS Case No 27 of 2011 and the petitioner was taken in custody on 06.05.2011. During his judicial custody, he was put under suspension by order dated 02.06.2011 with effect from 06.05.2011. He was granted bail and released from custody on 07.07.2011. He submitted his joining before the Treasury Officer on 15.07.2011 which was accepted on 14.10.2011. His suspension was also revoked with effect from 15.07.2011. He was further suspended under Rule 9 of the Bihar CCA Rules due to pendency of the vigilance case. Thereafter, he was served with a departmental charge sheet dated 24.10.2011.



Departmental enquiry was conducted by the Enquiry Officer who submitted his report to the Disciplinary Authority. The Disciplinary Authority, vide order dated 17.02.2014 (Annexure P/10) passed the order of major punishment and the services of the petitioner have been dismissed. Against the said order, Service Appeal No 116 of 2015 was preferred by the petitioner which was also dismissed by the Appellate Authority on 12.06.2018. Thereafter, the petitioner challenged both the orders by filing a writ petition before this Court being *CWJC No 5595 of 2019* which has been allowed by a coordinate Bench of this Court vide its order dated 09.07.2024 and the matter was remitted back to the Appellate Authority with a direction to pass a reasoned and speaking order within 90 days from the date of production of a copy of the order of this Court.

3 Subsequently, the Appellate Authority passed the impugned order (Annexure P/17 dated 05.11.2024) whereby the order passed by the Disciplinary Authority has been affirmed. Hence, this petition.

4 It is submitted by the learned counsel for the petitioner that along with charge sheet dated 24.10.2011, neither list of witnesses nor list of documents were provided to the petitioner. During the course of enquiry also, the Enquiry Officer had not



recorded the statement of any of the witnesses and only, on the basis of submission made by the Presenting Officer, arrived on the conclusion that charges levelled against the petitioner were duly proved. He further submits that on the basis of enquiry report, second show cause was issued against the petitioner. In his reply, the petitioner categorically mentioned the fact that no witnesses were examined by the Enquiry Officer nor any documents were provided to him and he further demanded the same but the same has not been provided and without considering his reply of show case, the Disciplinary Authority passed the order of punishment which is not in accordance with law. He further submits that while deciding the appeal, on both occasions, the Appellate Authority did not consider these aspects and passed the orders mechanically. Therefor, on these grounds, both the orders, i e, order of dismissal as well as the order passed by the Appellate Authority (Annexure P/17) are liable to set aside. Lastly, it is submitted that the petitioner has already retired from the services, therefore, he is also entitled to get all consequential benefits.

5 Reliance has been placed by the counsel on the judgment passed by the Supreme Court in the cases of *Satyendra Singh -Versus- The State of Uttar Pradesh & Another, 2024 SCC Online SC 3325, Roop Singh Negi -Versus- Punjab National*



Bank & Others, (2009) 2 SCC 570 and the judgment passed by this Court in ***LPA No 770 of 2024 (State of Bihar & Others -Versus- Anil Kumar Sinha)***. Also reliance has been placed by the counsel on the judgment passed by this Court in ***CWJC No 7776 of 2023 (Sanjay Kumar -Versus- The State of Bihar & Others)***.

6 The learned counsel for the State opposes the argument raised by the learned counsel for the petitioner.

7 I have heard learned counsel for the parties. Perused the documents annexed with the writ petition as well as the counter affidavit.

8 The first contention raised by the learned counsel for the petitioner is that in the charge memo, neither list of witness nor list of documents were prepared and provided to the petitioner. Perusal of the charge memo (Annexure P/5) annexed with the petition shows that in the charge memo, neither list of witnesses nor the list of documents were prepared and provided to the petitioner. The contention raised by the learned counsel for the petitioner in this regard is also not duly rebutted by the respondent-State in its counter affidavit.

9 Perusal of the enquiry report (Annexure P/7) also shows that the Enquiry Officer neither recorded the statement of any witness nor relied on any of the documents of the Department



and passed the enquiry report only on the basis of submission made by the Presenting Officer giving finding that the charges levelled against the petitioner has been duly proved. The enquiry report further shows that during the course of enquiry, some documents were demanded by the petitioner which were not provided to him. Perusal of the reply of the second show cause submitted by the petitioner further shows that this fact has been categorically stated by the petitioner in his show cause that he has neither been provided any document relied upon by the Department nor any statement of the witness which was recorded by the Enquiry Officer. However, the Disciplinary Authority, while passing the order impugned whereby the services of the petitioner have been terminated, did not consider these aspects. While deciding the appeal, the Appellate Authority also did not consider it and passed the impugned order (Annexure P/17).

10 In the case of ***Roop Singh Negi (supra)***, the Supreme Court held that mere production of document is not enough. The relevant part of the judgment rendered in the case of ***Roop Singh Negi (supra)*** at paragraph 23 reads as under:

“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.”

11 In the case of Satyendra Singh, the Supreme Court observed and held in paragraph 17 as follows:

“17. Thus, even in an ex-parte inquiry, it is sine qua non to record the evidence of the witnesses for proving the charges. Having tested the facts of the case at hand on the touchstone of the Rules of 1999, and the law as expounded by this Court in the cases of Roop Singh Negi and Nirmala J Jhala, we are of the firm view that the inquiry proceedings conducted against the appellant pertaining to charges punishable with major penalty, were totally vitiated and non-est in the eyes of law since no oral evidence whatsoever was recorded by the department in support of the charges.”

12 In the light of above observation made by the Supreme Court, on examination of the facts of the case, it is quite clear that the Enquiry Officer, without recording the statement of



any witness and without production of any document by the Department, only on the basis of submission made by the Presenting Officer, arrived on the conclusion that the charges levelled against the petitioner are duly proved. The above finding recorded by the Enquiry Officer is not in accordance with law. However, the Disciplinary Authority as well as the Appellate Authority also did not consider this aspect while passing the order of punishment and deciding the appeal.

13 Therefore, in the light of above observations made by the Supreme Court in the case of *Roop Singh Negi (supra)*, the order passed by the Disciplinary Authority (Annexure P/10) and the order passed by the Appellate Authority (Annexure P/13) are liable to be set aside. Accordingly, both the orders are quashed and set aside.

14 The writ petition is allowed.

15 Since the petitioner has already retired from the services, therefore, he is entitled to get entire consequential benefits.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.05.2025
Transmission Date	NA

