

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3326 of 2025

Shambhu Sharan, Son of Late Gunjeshwari Ram, Resident of Village and Post- Ghurgaon, Police Station and District-Madhepura, Present posted as Block Agriculture Officer, Udwantnagar, District- Bhojpur at Ara

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Secretary, Principal General Administration Department, Government of Bihar, Patna
3. The Secretary, Agriculture Department, Government of Bihar, Patna
4. The Secretary, Additional Agriculture Department, Government of Bihar, Patna
5. The Joint Secretary, Agriculture Department, Government of Bihar, Patna
6. The Deputy Secretary, Agriculture Department, Government of Bihar, Patna
7. The Under Secretary, Agriculture Department, Government of Bihar, Patna
8. The Director, Agriculture Department, Government of Bihar, Patna
9. The Deputy Secretary, Agriculture Department, Government of Bihar, Patna
10. The Joint Director (Agronomy)-cum- Enquiry Officer, Darbhanga Division, Darbhanga
11. The District Magistrate, Madhubani
12. The District Agriculture Officer-Cum- Present Times New Romanting Officer, Madhubani
13. The District Manager, State Food and Civil Supply Corporation, Madhubani

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pramod Mishra, Advocate Mr. Prasoon Kumar, Advocate
For the Respondent/s	:	Mr. Vasant Vikash, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 25-02-2025 Heard Mr. Pramod Mishra, learned Advocate for the petitioner and Mr. Vasant Vikas, learned Advocate for the State.

2. The petitioner is aggrieved with the order as contained in Memo No. 1177 dated 10.10.2023 issued by the respondent no. 8 whereby the petitioner has been inflicted with



the punishment of censure for the year 2014-15 as well as withholding of two increments with cumulative effect, besides the recovery of 98,41,961/- from the petitioner. The petitioner also sought quashing of the order as contained in letter no. 1041 dated 26.12.2024 issued by the respondent no. 8 whereby the review application preferred by the petitioner came to be rejected on being found time barred.

3. Learned Advocate for the petitioner has confined his prayer in a limited bound stating before this Court that the petitioner was working as a Block Agriculture Officer, Laukahi (Madhubani) during the paddy procurement in the year 2014-15. In addition to his duties, the petitioner was also authorized to discharge the duty of in-charge officer of Paddy Procurement Centre, Laukahi.

4. On account of certain imputations as disclosed in the memo of charge the petitioner was put to a departmental proceeding. On show cause being asked, the petitioner submitted his detailed explanation before the inquiry officer. After due enquiry, the charges could not have been proved against the petitioner; however, the Disciplinary Authority could not agree with the enquiry report and vide order dated 14.03.2023 directed to re-enquire the matter in presence of



District Manager, SFC, Madhubani. A fresh enquiry has been conducted after giving opportunity to all the concerned but again none of the charges stood proved; the Inquiry Officer submitted final inquiry report on 27.07.2023 as contained in letter no. 802.

5. The learned Advocate for the petitioner referring to the inquiry report submitted the charges levelled against the petitioner, admittedly could not have been proved and thus the petitioner exonerated of both the charges. Notwithstanding, the aforesaid facts, the disciplinary authority without issuing any second show cause notice or much less without differing with the findings of the inquiry officer straightway passed the impugned order which is impugned herein.

6. It is the contention of the learned Advocate that neither the petitioner has been provided an opportunity to submit a written defence, nor he was asked to produce any materials in support of his defence, before inflicting the major penalty, *inter alia*, directing for recovery of certain amount. The impugned order of punishment is wholly illegal and contrary to the prescription as provided under Rule 18(2) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005. The petitioner being aggrieved also preferred review application which also came to be rejected on



the ground of being time barred, without considering the grounds, challenging the original order.

7. Learned Advocate for the State referring to the impugned order submitted that at the initial stage in course of inquiry, the District Manager, SFC, Madhubani had not been allowed to participate and, as such, the disciplinary authority has rightly directed for re-inquiry. In course of inquiry it has been found that the matter relates to financial irregularity and the indiscipline, which is of serious nature and accordingly the impugned order has been passed by the competent authority.

8. The learned Advocate for the State further prayed for a short adjournment to file response to the writ petition.

9. Having heard the learned Advocate for the parties and after going through the impugned order, this Court primarily observed that the validity of the order is to be tested on the basis of the reason assigned in the order itself and it cannot be improved and supplemented by way of filing an affidavit or counter affidavit, as has been settled by the Apex Court in the case of *Mohinder Singh Gill & Anr. vs. Chief Election Commissioner, New Delhi & Ors., (1978) 1 SCC 405*.

10. Bare perusal of the impugned order, it would be manifestly apparent that the inquiry officer has exonerated the



petitioner on being found none of the charges proved. If the disciplinary authority otherwise disagrees with the finding of the inquiry authority on any article of charge, he must record its reason for such disagreement and record its finding on such charge, if the evidence on record is sufficient for the purpose, which is the mandate of Rule 18(2) of the Rules, 2005.

11. The issue, as discussed hereinabove has come up for consideration before the Hon'ble Apex Court in the case of **Punjab National Bank and Ors. vs Kunj Behari Misra**, reported in (1998) 7 SCC 84 wherein the Hon'ble Apex Court in no uncertain term has observed that whenever the disciplinary authority disagrees with the inquiry authority on any article of charge then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the inquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favorable conclusion of the inquiry officer. The principles of natural justice requires the authority, which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a



representation before the disciplinary authority records its findings on the charges framed against the officer.

12. In the case in hand, the disciplinary authority has given a complete go-bye to the statutory prescriptions, as provided under Rule 18(2) of the Rules, 2005, as also the mandate of the Apex Court discussed hereinabove. Any order causing prejudice to the right and entitlement of a person must be in consonance with the principles of natural justice. Any infraction of statutory rules and the settled procedure makes the order vulnerable and fit to be interfered with.

13. The order impugned also reflects that the punishment has been inflicted only on account of the fact that the imputation relates to financial irregularity and indiscipline, which is of grave nature. Nonetheless, it is the admitted fact that the petitioner has been exonerated from all the charges, but the punishment has been imposed. Well settled, it is that the suspicion, howsoever, strong cannot take the place of proof.

14. In view of the discussions made hereinabove, this Court is left with no option, but to set aside the impugned order of punishment as well as revisional order, by which the review application filed by the petitioner came to be rejected on being found time barred.



15. The writ petition stands allowed with all consequential benefits. However, the respondents are always be at liberty to take appropriate steps in accordance with law, if it warrants necessary, in the facts of this case.

(Harish Kumar, J)

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