

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9283 of 2016

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Shambhu Sharan Prasad S/o Late Nand Kishore Prasad, resident of village-
Bhuidhara, P.O.- Dhurlakh, P.S.- Samastipur Muffassil, District- Samastipur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Darbhanga
3. The District Magistrate, Samastipur
4. The Additional Collector, Department Proceeding, Samastipur
5. The Deputy Collector, Establishment, Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pramod Kumar Singh, Advocate
For the State	:	Mr. Sunil Kumar Mandal, SC-3
		Mr. Bipin Kumar, AC to Sc-3

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 15-07-2025

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

2. The present writ petition has been filed for the
following relief/s :-

“(i) For quashing order dated 01.03.2016 passed in service Appeal Case No. 13/2015 passed by Divisional Commissioner, Darbhanga whereby the appeal preferred by petitioner against the order dated 01.06.2015 has been rejected on non-est grounds.

(ii) Four quashing order contained in Memo No. 535 dated 01.06.2015 passed by District Magistrate Samastipur, whereby punishment of stoppage of promotion has been given to the petitioner on nonest ground



(iii) For any other/relief/reliefs for which petitioner may be found to be entitled in the facts and circumstances of the case.

(iv) The petitioner prays for issuance of a writ in the nature of certiorari for quashing the enquiry report dated 27.01.2015 submitted by Additional Collector, Departmental Enquiry, Samastipur, whereby the enquiry officer has proved all the charges against the petitioner in a complete illegal, arbitrary and unauthorized manner.

(v) In consequence thereof, for issuance of writ/writs of mandamus commanding the respondent authorities to grant all consequential benefits admissible to petitioner.”

3. Learned counsel for the petitioner submits that the petitioner was initially appointed as a Lower Division Clerk/Assistant in the Collectorate cadre in the district of Samastipur on 02.04.1985. Over time, the petitioner was posted as an Upper Division Clerk in the District Revenue Section, Samastipur. It is further submitted that vide Memo No. 892 dated 18.09.2014, a show cause notice was issued to the petitioner by the District Magistrate, Samastipur, alleging carelessness and indiscipline, particularly in relation to delay in issuance of letters pursuant to orders passed by the authorities. The said show cause notice enumerated 124 instances of such delay and also pointed out the petitioner's failure to record



entries in the institution registers. Learned counsel further submits that the petitioner submitted his show cause explanation on 25.09.2014. However, disregarding the explanation, a departmental proceeding was initiated vide Memo No. 1016 dated 16.10.2014, whereby charges were framed against the petitioner in Prapatra 'Ka' and a Conducting Officer and Presenting Officer were appointed. The departmental enquiry was thereafter conducted. The petitioner duly participated in the enquiry proceedings and filed his reply before the Enquiry Officer. However, without giving due consideration to the petitioner's reply and explanation, a report dated 27.01.2015 was submitted, holding both charges proved against the petitioner.

4. Learned counsel for the petitioner further submits that based on the enquiry report, the District Magistrate, Samastipur, vide Memo No. 534 dated 01.06.2015, imposed the punishment of stoppage of promotion and concluded the departmental proceeding against the petitioner (Annexure-6 to the writ petition). Aggrieved by the said order, the petitioner preferred Service Appeal No. 13/2025 before the Divisional Commissioner, Darbhanga, under Section 24 of the Bihar Government Servants (Classification, Control & Appeal) Rules,



2005 (hereinafter referred to as the 'CCA Rules, 2005'), challenging the order contained in Memo No. 534 dated 01.06.2015. However, the said service appeal was dismissed vide order dated 01.03.2016, which is annexed as Annexure-7 to the writ petition.

5. On merits, learned counsel for the petitioner submits that the Enquiry Officer submitted the report without properly appreciating the factual matrix. It is contended that the petitioner had consistently raised the issue of heavy workload, and that delays in certain cases were due to orders being passed on a later date a fact even acknowledged by the Presenting Officer. Despite this, both the District Magistrate, Samastipur and the Divisional Commissioner, Darbhanga overlooked these submissions and passed the impugned orders in a mechanical and non-speaking manner. It is further submitted that the petitioner was working under a constrained environment where only five clerks were posted against the sanctioned strength of nine, resulting in a substantial workload. The delays occurred in only a few cases, while in numerous instances, letters were issued in a timely manner but the said facts were not taken into account by the authorities. Learned counsel also submits that the punishment of stoppage of promotion is disproportionately



harsh in view of the nature of the alleged lapses, particularly when there is no allegation of misconduct, dishonesty, or disobedience on the part of the petitioner.

6. Learned counsel for the petitioner further submits that in a separate departmental proceeding initiated against one Sri Kailash Paswan, who was working as Head Clerk in the Circle Office, Kalyanpur, and was involved in financial irregularities, the District Magistrate, Samastipur awarded only the punishment of 'Censure'. In contrast, the petitioner has been awarded the punishment of stoppage of promotion for a less serious charge, which is stated to be arbitrary, discriminatory, and not commensurate with the nature of the allegations. It is further submitted that the order of punishment has been passed in gross violation of Explanation 2(ii) of Rule 14 of the CCA Rules, 2005. On this ground alone, the order deserves to be set aside. Learned counsel also places reliance on a judgment of this Hon'ble Court in CWJC No. 8789 of 2016, preferred by a similarly situated person, Aashish Kumar Roshan, who had been imposed the same punishment. In that case, a co-ordinate Bench, vide order dated 13.02.2024, allowed the writ petition and set aside both the original and appellate orders, holding that the proceedings were in violation of Rule 14(ii) of Bihar CCA



Rules, 2005 and were conducted without examination of any witness, and also without proper consideration of the petitioner's explanation regarding heavy workload. Learned counsel lastly submits that in the petitioner's case not a single witness was examined during the enquiry proceedings. Therefore, the enquiry report, the punishment order, and the appellate order are vitiated in law and deserve to be quashed and set aside.

7. On the contrary, learned counsel for the State submits that during an official inspection on 02.09.2014, the District Magistrate, Samastipur received a complaint at the Block-cum-Anchal Office, Samastipur regarding Mutation Revision Case No. 93/2014 (Gitika and Ors. vs. State of Bihar and Ors.), wherein an order had allegedly been passed against the Government by the Court of the Additional Collector, Samastipur, despite the fact that the application had already been rejected by both the Anchal Adhikari and the Deputy Collector, Land Reforms, Samastipur. Consequently, the Additional Collector, Samastipur, was directed vide Letter No. 2405 dated 08.09.2014 to forward the original case record of Mutation Revision Case No. 93/2013 along with all other land dispute case records to the Legal Section for examination of



cases in which orders had been passed against the Government. Subsequently, a report was prepared concerning disposed cases in the Revenue Section for the financial year 2011–12, wherein it was revealed that the writ petitioner had caused an abnormal delay in sending records and communications to the concerned officers. Thereafter, the petitioner was issued a show-cause notice vide Memo No. 892/Estt. dated 18.09.2014 seeking his explanation for the delay. In response, the petitioner submitted his explanation dated 25.09.2014 to the District Magistrate, Samastipur, citing various reasons for the delay. However, the explanation was not found satisfactory, and accordingly, a departmental proceeding was initiated. Charges were framed against the petitioner in Form 'K' vide Memo No. 1015/Estt. dated 16.10.2014, and the Additional Collector, Departmental Enquiry, Samastipur, was appointed as the Conducting Officer. The Conducting Officer, after completing the enquiry, submitted his report vide Letter No. 30 dated 27.01.2015, wherein the charges levelled against the petitioner were found to be proved. Thereafter, an opportunity was given to the petitioner to submit his representation, and upon consideration of the same along with the enquiry report, the disciplinary authority imposed the punishment of stoppage of promotion vide Memo No. 535 dated



01.06.2015.

8. Learned counsel for the State further submits that being aggrieved by the said punishment order, the petitioner preferred an appeal before the Commissioner, Darbhanga, registered as Appeal No. 13/2015, which was dismissed after hearing the parties.

9. However, upon a perusal of the oral judgment passed by a Co-ordinate Bench of this Court in CWJC No. 8789 of 2016, it transpires that the Co-ordinate Bench had interfered in the matter on the ground that the impugned order was passed without examination of any witness, which is in clear violation of the provisions of the CCA Rules, 2005. This vital procedural lapse was not taken into account by the disciplinary authority. Further, the Co-ordinate Bench also observed that the appellate authority had failed to comply with the mandatory requirement under Rule 14(ii) of the said Rules and had not considered Explanation (2)(ii) thereof, which specifically provides, as follows :-

“Withholding of Promotion.—While awarding the penalty of withholding of promotion, it shall be essential to explain in the order of the disciplinary authority whether this penalty shall be for a particular period or for the



whole service period.”

10. Upon perusal of the charge memo, it transpires that discrepancies were found in a total of 124 case records. In his reply, the petitioner has nowhere denied the existence of such discrepancies; rather, he has sought to justify the irregularities by offering explanations. This Court is of the firm view that it is the absolute duty of the dealing clerk to maintain the institution register properly and to ensure timely compliance with Court orders. However, the petitioner failed to do so within the prescribed time frame. In his reply to the show-cause notice, instead of accepting responsibility, he attempted to shift the blame onto others. The duty of maintaining records and ensuring compliance of court orders squarely lies on the petitioner. From the records annexed as annexures to the writ petition it transpires that there is repeated delays in compliance of Court's order in at least 124 cases which undoubtedly have a serious administrative impact. Hence, the conduct of the petitioner cannot be condoned.

11. With respect to the observation of the Co-ordinate Bench that the enquiry was conducted without recording any evidence and the Enquiry Officer arrived at a conclusion without proper basis, this Court respectfully disagrees. The



petitioner, in his show-cause/reply, did not deny the allegations nor did he assert that the charges were factually incorrect. Rather, he admitted to the lapses and only took his plea that the delays were unintentional and would not recur. Therefore, the finding of guilt was based upon admitted conduct and a detailed explanation was considered by the Enquiry Officer.

12. The enquiry report reveals that the Enquiry Officer took into account the petitioner's explanation and found both charges to be proved. It was specifically found that in 72 cases, compliance with court orders was made after a delay ranging from one to nine months; in 39 cases, the date of the court's order and the date of issuance were not recorded; and only in 13 cases was compliance made within one month. In view of these findings, and considering the explanation submitted by the petitioner, the Enquiry Officer held the charges to be established. Consequently, the disciplinary authority, while accepting the report, imposed a minor punishment 'stoppage of promotion' vide Memo No. 535 dated 01.06.2015. This Court finds that the said punishment falls within the scope of minor penalties, and under Rule 18(5) of the CCA Rules, 2005, the disciplinary authority is well empowered to impose such punishment based on the enquiry report.



13. However, this Court is of the view that while awarding the penalty of withholding of promotion under Rule 14(ii) of the CCA Rules, 2005, it is mandatory for the disciplinary authority to record a finding in terms of Explanation (2)(ii) of Rule 14 of the CCA Rules, 2005. But, in the present case, the punishment order does not specify whether the penalty of withholding promotion is for a limited period or for the entire service period, which is a clear procedural lapse. Therefore, though the punishment may be minor in nature and within the competence of the disciplinary authority, the failure to comply with the mandatory requirement under Rule 14 Explanation (2)(ii) of the CCA Rules, 2005 renders the order legally unsustainable to that extent.

14. This Court finds that the disciplinary authority as well as the appellate authority failed to consider the mandatory requirement under Explanation (2)(ii) of Rule 14 of the CCA Rules, 2005. This Court only agree that a punishment order withholding promotion must clearly specify whether such penalty is for a particular period or for the entire service tenure.

15. Accordingly, solely on this ground, the order dated 01.06.2015 contained in memo no. 535 passed by the District Magistrate, Samastipur (Annexure -6 to the writ petition), as



well as the order dated 01.03.2016 passed in Service Appeal Case No. 13/2015 by the Divisional Commissioner, Darbhanga (Annexure-7 to the writ petition) and the enquiry report dated 27.01.2015 (contained in Annexure P/9 to the Interlocutory Application No.1 of 2024) are hereby set aside only for the purpose of passing order on the point of punishment in the light of Explanation (2)(ii) of Rule 14 of the CCA Rules, 2005.

16. The matter is remanded back to the disciplinary authority with a direction to pass a fresh order of punishment in accordance with law, after duly considering the requirement laid down under Explanation (2)(ii) of Rule 14 of the CCA Rules, 2005, within a period of 90 days from the date of receipt or production of a copy of this order.

17. With the aforesaid observation and direction, the writ petition stands disposed off.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	16/07/2025
Transmission Date	NA

