

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8309 of 2019

Vikash Kumar Son of Late Uma Kant Singh Resident of Village Sare, P.S.
Sare, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Finance, Government of Bihar, Patna.
2. The Secretary (Expenditure)-cum- Commissioner, Accounts Administration, Directorate of Provident Fund, Department of Finance, Bihar, Patna.
3. The Director Directorate of Provident Fund, Department of Finance, government of Bihar, Patna.
4. The Special Secretary- cum- Joint Commissioner Account Administration, Directorate of Provident Fund, Patna, Bihar.
5. The Assistant Director-cum- Enquiry Officer Directorate of Provident Fund, Department of Finance, Government of Bihar, Patna.
6. The District Provident Fund Officer -cum- Presenting Officer Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur Mr. Shivam
For the Respondent/s	:	Mr. Parijat Saurav AC to AAG-13

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 28-07-2025

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

2. This petition has been preferred by the petitioner
challenging the order of dismissal, as contained in Memo No.



4214, dated 23.05.2014 whereby and whereunder the petitioner has been dismissed from the services and further challenged the order dated 31.01.2019 whereby the appeal preferred by the petitioner is also dismissed.

3. The brief facts of the case is that while the petitioner was posed as Clerk in the office of the District Provident Fund, Nalanda, a complaint was filed against him on 17.04.2009 by one Malti Devi alleging therein that in lieu of issuance of authority letter in her favour for final withdrawal of her General Provident Fund, the petitioner demanded a sum of Rs. 2500/-. On the basis of such allegation, raid was conducted on 21.04.2009 and the petitioner was caught red handed taking bribe money from the complainant. The case was registered against the petitioner and he was taken in custody and thereafter the petitioner was released on bail by the competent Court on 25.05.2010. A separate departmental enquiry was also initiated against the petitioner. The enquiry officer and the presenting officer were appointed. The enquiry officer in its enquiry report dated 25.06.2012 charge nos. 1 and 2 have been proved against the petitioner, however, charge nos. 3, 4 and 5 were kept pending till decision of the Special Court, Vigilance. The second show cause notice was issued to the petitioner and subsequently,



the respondent authority passed the impugned order of dismissal of the petitioner from the services (Annexure-13). The departmental proceeding has also preferred by the petitioner which has also been dismissed vide its order dated 31.01.2019 (Annexure-14) and hence, this writ petition.

4. Learned counsel for the petitioner submits that along with charge-sheet no list of witnesses were prepared nor any witness has been examined by the department during course of enquiry. According to the counsel, the enquiry officer only on the basis of some documents arrived at the conclusion that the charge nos. 1 and 2 have been duly proved against the petitioner. He submits that to prove the charge nos. 1 and 2, no evidence has been adduced by the presenting officer and the enquiry officer only on the basis of presumptions arrived at the conclusion that the charge nos. 2 and 3 has been duly proved against the petitioner. While passing of the order of dismissal also, the learned disciplinary authority as well as while deciding the appeal, the learned appellate court also did not consider these aspects. Hence, all the orders impugned are liable to be set aside.

5. Learned counsel appearing on behalf of the State opposes the arguments raised by the counsel for the petitioner



and submits that taking into consideration the materials available on record, all the impugned orders has rightly been passed by the respondents-authority.

6. Heard learned counsels appearing for both the parties and perused the documents annexed with the petition as well as counter affidavit filed by the respondents.

7. Perusal of the charge memo clearly shows that total 5 charges were levelled against the petitioner. With the charge memo, no list of witness has been prepared, only two documents were relied by the department i.e. FIR registered against the petitioner and pre-trap memorandum. However, the enquiry officer arrived at the conclusion that charge nos. 3, 4 and 5, which were related to the Vigilance Case no. 040 of 2009 for taking bribe of Rs. 2500/-, is not proved yet as it will be decided after the decision of the Special Court, however, the enquiry officer found charge nos. 1 and 2 proved.

8. Perusal of the charge memo shows that charge no.1 shows that petitioner was unauthorizedly absent from the duty and no explanation has been given by him whereby he committed misconduct. The charge no. 2 was levelled against him mentioning the fact that one complaint has been made against him by the union of non-gazetted teachers, Biharsharif



for harassing the retired employees. Though the enquiry officer found proved these charges, but perusal of the enquiry report clearly shows that none of the person, who made the complaint against the petitioner, has been made witness nor examined before the enquiry officer to prove the charge no.2. With regard to the charge no.1, also no witness was examined before the enquiry officer nor any of the document was tendered by the department during course of enquiry. Therefore, the findings, as recorded by the enquiry officer with regard to the charge nos. 1 and 2 is concerned, is not in accordance with the evidence available on record. It appears that the enquiry officer only on the basis of presumptions found charge nos. 1 and 2 proved. Virtually, it is a case of no evidence, however, the disciplinary authority and the appellate authority while passing the impugned orders were not considered these aspects.

9. Looking to the above facts and circumstance of the case and in the considered view of this Court, both the impugned orders are liable to be set aside.

10. Accordingly, the impugned orders dated 23.05.2014 (Annexure-13) and 31.01.2019 (Annexure-14) are set aside.

11. The petitioner is directed to be reinstated in his



services forthwith with all consequential benefits.

12. With the aforesaid observation and direction, this writ petition is allowed.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2025
Transmission Date	NA

