

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13710 of 2013

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Jagannath Das Son Of Late Satyadeo Das, Resident Of Chapki Padi, Police
Station Darbhanga Sadar, District- Darbhanga

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary Rural Works Department,
Vishwesharaiya Bhawan, Bailey Road, Patna
2. The Joint Secretary, Rural Works Department, Vishwesharaiya Bhawan,
Bailey Road, Patna
3. The Special Secretary, Rural Works Department, Vishwesharaiya Bhawan,
Bailey Road, Patna
4. The Chief Engineer No. 2, Rural Works Department, Harding Road, Barrack
No. 2, Patna
5. The Superintending Engineer, Rural Works Department, Works Circle,
Darbhanga
6. The Superintending Engineer, Rural Works Department, Works Circle,
Samastipur
7. The Executive Engineer, Rural Development Special Division No.2,
Samastipur
8. The Executive Engineer, Rural Works Department, Works Division No. 2,
Rosera, Samastipur
9. The Executive Engineer, Rural Works Department, Works Division, Dalsing
Sarai, District- Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rupak Kumar, Advocate Mr. Vikrant Kumar, Advocate
For the Respondent/s	:	Mr. Vipin Kumar Singh, AC to SC- 22

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 24-03-2025 Heard Learned Counsel for the petitioner and

Learned Counsel for the State.

2. The present writ application has been filed for
quashing of office order No. 58, dated 23.02.2012, read with
office Memo No. 3064, dated 23.02.2012, and further for order
of punishment of censure to remain effective for the period



2011-2012, 2012-2013 and 2013-2014 along with the withholding of two increments with non-cumulative effect, which has been inflicted upon the petitioner for the alleged financial irregularities. It is also indicated in the order that the said penalties were inflicted upon the petitioner with the approval of the Secretary, Rural Works Department, Bihar.

3. Learned Counsel for the petitioner submits that the punishment order passed by the Disciplinary Authority was duly approved by the Secretary, Rural Works Department, Bihar, who is the Appellate Authority for the petitioner. As such, Counsel submits that the scope of appeal has been restricted by the respondent, and, therefore, the petitioner has moved directly before this Hon'ble Court. Counsel further submits that the present disciplinary proceeding involves a gross violation of procedure under the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, (hereinafter referred to as CCA Rules). Counsel also submits that in the charge memo, one of the documents, which were shown as evidence, i.e., letter No. 419, dated 18.12.2010 (the Enquiry Report) in which nothing was found against the petitioner, was not considered. Counsel further submits that from the forwarding of *Prapatra-ka*, it becomes crystal clear that a Presenting Officer was appointed for this departmental proceeding, but the said Presenting Officer



never appeared throughout the departmental proceeding. In this regard, the petitioner has made specific pleadings in paragraph 15 that the Presenting Officer did not attend the departmental proceeding on the dates fixed by Enquiry Officer. Counsel further submits that there is a violation of Rule 18 of the CCA Rules. Counsel also submits that the Enquiry Officer reached on the conclusion without the genesis of the allegation that is to say not a single witness was examined who had made allegations. As such, the said proceeding has been made in gross violation of the CCA Rules 2005, and, therefore, the order should be set aside. In support of his arguments, Counsel has relied on the case of **Roop Singh Negi Vs. Punjab National Bank & Ors.**, reported in **2009 (2) SCC 570**.

4. Learned Counsel for the State, on the other hand, submits that there is no need for any interference in the disciplinary proceedings due to the reason that the charge memo was served, a Presenting Officer was appointed, the Enquiry Report was considered, and the second show cause notice was issued. Thereafter, the Disciplinary Authority passed the order. Counsel submits that order passed by the Disciplinary Authority was duly approved by the Secretary, Rural Works Department, Bihar, and therefore, there is no need of any interference, as there was neither violation of natural justice, nor any lacuna in



the proceedings and the punishment imposed is also not exorbitant.

5. In light of the submissions made by the parties as well as going through the pleadings and the documents attached, it transpires to this Court that the '*Prapatra-ka*' indicates the evidence on which the State relied, i.e., the Enquiry Report contained in letter No. 419 dated 18.12.2010 and the report of the *Mahalekhakar* for the year 2007-08. The forwarding letter, by which the '*Prapatra-ka*' was served upon the petitioner also mentions the appointment of the Presenting Officer. From the statement made in paragraph 15 of the writ petition, it is clear that the petitioner has specifically pleaded that the Presenting Officer never attended the Departmental proceedings on the dates fixed by the Enquiry Officer. This plea has not been denied in the counter-affidavit. It also transpires to this Court that letter No. 419 dated 18.12.2010, which is the evidence on which the respondent relied is Annexure 2.

6. Upon perusal of Annexure 2, it becomes crystal clear that from the Enquiry Report, nothing was proved against the petitioner, and it states that the allegations of complainant is wrong and the finding is point wise. Furthermore, it transpires to this Court from the enquiry report and the order passed by the Disciplinary Authority that there is no finding or consideration



of the said enquiry report, which is basically the evidence of the charge memo / 'Prapatra-ka'. Additionally, it transpires to this Court that there is gross violation of Rule 18 of the CCA Rules, as no specific finding was made by the Disciplinary Authority at the time of issuance of the second show cause notice to the petitioner. The basic norms of **Roop Singh Negi** (Supra) case states as follows:-

14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence.

which has not been followed.



7. From the charge memo, it transpires to this Court that the evidence, on the basis of which the charge has to be proved is the enquiry report contained in letter No. 419, dated 18.12.2010. In the second enquiry report, evidence on the basis of which charge has to be proved is I.R. No. 136 of 2007-08 of the office of Accountant General, but from the enquiry report it transpires that the said report i.e., letter No. 419 dated 18.12.2010 has not been discussed at all. Upon perusal of the said enquiry report, dated 18.12.2010, it transpires that the petitioner is loyal, dedicated and knowledgeable person and no adverse comment has come against the present petitioner rather it has come that it is the Executive Engineer who used to take work from the petitioner. The petitioner is basically sub-ordinate to the Executive Engineer, therefore, this petitioner has no option but to follow the instruction of his superior and the entire enquiry report and disciplinary proceeding are lacking of the material found in the enquiry report dated 18.12.2010. In the said enquiry report, it is the Executive Engineer who has been found responsible for ignoring the norms. He has instructed the petitioner to do work under the supervision of Assistant Engineer and Junior Engineer. Therefore, the petitioner could not be held responsible, particularly, in the light of the **Roop Singh Negi case** (Supra). There is absolute lacking of evidence against the



petitioner.

8. It also transpires to this Court that the disciplinary order has been duly approved by the Secretary, Rural Works Department, Bihar, who is the appellate authority and, therefore, the petitioner has rightly challenged his punishment passed by the disciplinary authority before this Hon'ble Court.

9. In the light of the discussions made above, this Court hereby set aside the office order No. 58, dated 23.02.2012 read with office Memo No. 3064, dated 23.02.2012 issued under the signature of Joint Secretary, Rural Works Department, Government of Bihar.

10. As the petitioner has already retired on 30.06.2013, and the present year is 2025, this Court directs the State to pay all the retiral dues to the petitioner including consequential benefits for which he is entitled to.

11. With this direction, the writ petition stands disposed off.

(Dr. Anshuman, J.)

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