

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7776 of 2023

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Sanjay Kumar son of Late Rajendra Prashad Resident of Mohalla- Raghunath
Tola, P.O.- Anishabad, P.S.- Phulwarisharif,

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue Land Reforms, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue Land Reforms, Government of Bihar, Patna.
3. The Commissioner Magadh Division, Patna.
4. The District Magistrate Patna.
5. The Circle Officer, Punpun, District- Patna.
6. The Circle Officer, Phulwarisharif, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Akhilesh Dutt Verma, Sumit Kr Jha, Advocates
For the Respondent/s : Mr Raj Kishore Roy, GP XVIII

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 29-05-2025

This petition has been filed by the petitioner for setting aside the order dated 08.10.2018 (Annexure 6) whereby and where under the Disciplinary Authority, i e, District Magistrate -cum- Collector, Patna has awarded the punishment of compulsory retirement from the service against the petitioner. Further challenge is to the order dated 14.07.2022 passed by the Appellate Authority (Annexure 7A) whereby and where under the appeal preferred by the petitioner has been rejected.

2 Brief facts of the case are that the petitioner was appointed as Revenue Staff and at the relevant time, i e, in the year



2014, he was posted as Circle Officer, Phulwarisharif, District-Patna. Vide letter dated 859 dated 16.03.2015, a charge memo in ***Prapatra Ka*** was issued against him wherein eight charges were framed. Presenting Officer and Conducting Officer were also appointed. The charge memo was served on the petitioner on 24.04.2015. He submitted his reply on 09.05.2015 and demanded certain documents on which the said charges were framed but no document was provided to the petitioner. Enquiry Officer submitted his enquiry report (Annexure 3) dated 22.07.2015. Second show cause was issued to the petitioner vide Annexure 4 series dated 11.12.2015. Again, the petitioner demanded certain documents through his communication dated 12.01.2016 which has not been provided to him. Subsequently, vide order dated 03.05.2018 (Annexure 5), again second charge memo has been issued against the petitioner and again the Enquiry Officer and the Presenting Officer were appointed. Subsequently, on the basis of enquiry report submitted by the Enquiry Officer on 22.07.2015, the order of punishment has been passed by the Disciplinary Authority vide Annexure 6 dated 08.10.2018 by which the Disciplinary Authority inflicted the punishment of compulsory retirement from the services against the petitioner. Departmental appeal has been preferred by the petitioner which has also been



rejected by order dated 14.07.2022 (Annexure 7A). Hence, this petition.

3 It is submitted by the learned counsel for the petitioner that even after submission of the enquiry report dated 22.07.2015, no decision has been taken by the Disciplinary Authority and subsequently the second charge memo (Annexure 5) dated 03.05.2018 has been issued against the petitioner and the Disciplinary Authority, relying upon the enquiry report dated 22.07.2015 of the Enquiry Officer (Annexure 3) passed the impugned order of punishment. After issuance of the second charge memo, no further enquiry was held and while passing the impugned order of compulsory retirement from services, the Disciplinary Authority did not consider the show cause submitted by the petitioner. Learned counsel further submits that on both occasions, i.e., at the time of issuance of both the charge memos, neither any list of witnesses nor list of documents were prepared and without recording of any evidence and without examining any of the witness, the Enquiry Officer found some of the charges proved against the petitioner. The finding recorded by the Enquiry Officer is based upon certain documents but none of the witnesses have tendered such documents during the course of enquiry. According to the counsel, the Disciplinary Authority, while



passing the order impugned, did not consider this aspect and further the Appellate Authority also did not consider this aspect and passed the order of rejection of the appeal.

4 Learned counsel for the petitioner has relied upon the judgments in the cases of *Ravindra Nath Singh -Versus- Bihar State Transport Corporation & Others*, 1996 (2) PLJR 95, *Roop Singh Negi -Versus- Punjab National Bank & Others*, (2009) 2 Supreme Court Cases 570, *State of Uttar Pradesh & Others -Versus Saroj Kumar Sinha*, (2010) 2 SCC 772, *Commissioner of Police Delhi & Others -Versus- Jay Bhagwan*, (2011) 6 SCC 376, *M V Bijalani -Versus- Union of India & Others*, (2006) 5 SCC 88, *Kuldeep Singh -Versus- Commissioner of Police & Others*, (1999) 2 SCC 10, *Kranti Associates Pvt Ltd & Others -Versus- Masood Ahmad Khan*, (2010) 9 SCC 496, *Vijendra Prasad -Versus- The State of Bihar & Others*, 2019 (4) PLJR 1446, *Arun Kumar -Versus- The State of Bihar & Others*, 2019 (3) BLJ 221 and *Satyendra Singh -Versus- The State of Uttar Pradesh & Another*, 2024 SCC Online SC 3325.

5 Learned State Counsel opposes the argument raised by the learned counsel for the petitioner.

6 I have heard learned counsel for the parties. Perused the documents annexed with the petition.



7 The petitioner has annexed both the charge memos issued against him and categorically pleaded that on both occasions, no list of witnesses and list of documents were prepared nor provided to the petitioner. The above averment raised by the petitioner has not been rebutted by the State in its counter affidavit. Both the charge memos annexed with the petition also show that there were neither list of witnesses nor list of documents on which the Department relied. Perusal of the enquiry report further shows that the Enquiry Officer, only on the basis of some documents, arrived on the conclusion that some of the charges levelled against the petitioner have been proved. How the documents were tendered has not been mentioned by the Enquiry Officer in his enquiry report.

8 Dealing with the issue in the case of ***Roop Singh Negi (supra)***, the Supreme Court held that mere production of document is not enough. The contents of the documents has to be proved by examining the witness. In the case of ***Roop Singh Negi (supra)***, the Hon'ble Supreme Court observed at paragraph 23 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.”

9 The Hon’ble Supreme Court in the case of *Satyendra*

Singh (supra) again 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.”

10 In the light of the above observations made by the Supreme Court, on examination of the facts of this case, it is quite clear that the Disciplinary Authority, while passing the order impugned, imposed the punishment of compulsory retirement, i e,



the major penalty but in the matter, neither the witnesses were examined nor any list of documents were prepared and provided to the petitioner and without recording any evidence of any of the witness, the Enquiry Officer, only on the basis of certain documents, arrived at the conclusion that some of the charges levelled against the petitioner are proved. The enquiry report is silent on the point that from where the documents which he relied were procured and who were the persons who tendered the documents.

11 Therefore, in the light of the above observation made by the Supreme Court in the case of **Roop Singh Negi (supra)** and **Satyendra Singh (supra)**, the impugned order dated 08.10.2018 (Annexure 6) and the appellate order dated 14.07.2022 (Annexure 7A) are liable to be set aside. Accordingly, both the orders are quashed and set aside.

12 The writ petition is allowed.

13 The respondents are directed to reinstate the services of the petitioner forthwith with all consequential benefits.

(Arvind Singh Chandel , J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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