

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6964 of 2024

Dr. Awinash Kumar Singh S/o Lt. Anirudh Prasad Singh, R/o At and P.O.- Sahzadpur, P.s.-Udakishunganj, District-Madhepura. At present posted as Medical Officer, Additional Primary Health Centre, Telari, Block-Chenari, District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary, Department of Health, Govt. of Bihar, Patna.
3. The Joint Secretary to the Secretary, Department of Health, Govt. of Bihar, Patna.
4. The Additional Secretary to the Government, Department of Health, Govt. of Bihar, Patna.
5. The Deputy Secretary to the Govt. Health Department, Govt. of Bihar, Patna.
6. The Director in Chief, Health Service, Govt. of Bihar, Patna.
7. The Chief Medical Officer cum Civil Surgeon, District-Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Advocate Mr. Kumar Avishekh, Advocate Mr. Uday Kumar Mahto, Advocate
For the Respondent/s	:	Mr. Manoj Kumar Ambashta, SC 26 Mr. Tripurari Natha, AC to SC 26 Mr. Sanoths Kumar Mishra, AC to SC 26

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 09-09-2025

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

2. This writ petition has been filed on behalf of
above named petitioner for issuance of an appropriate
Writ(s)/Order(s)/Direction(s) to the respondents for the
following relief(s) :-



- i). To quash the notification contained in memo no. 907 dated 10.11.2022 issued by the Additional Secretary to the Government, Health Department, Govt. of Bihar, whereby and whereunder punishment of withholding of three increments with cumulative effect has been imposed against the petitioner. A copy of memo dated 10.11.2022 is annexed as ANNEXURE-P1 to this application;
- ii). To quash the appellate order contained in memo no.-415, dated 26.04.2023 issued by the Joint Secretary to the Government, Health Department, Govt. of Bihar, Patna whereby and whereunder the appeal preferred by the petitioner against notification dated 10.11.2022 (Ann-1) has been rejected. A copy of memo dated 26.04.2023 is annexed as ANNEXURE -P 2 to this application;
- iii). To direct the respondents to pay the difference of pay to the petitioner w.e.f. 29.12.2005 to 27.07.2018 after deducting the subsistence allowances which has already been to the petitioner with appropriate statutory and penal interest;
- iv). To direct the respondents to pay all the three increments which has been deducted from the salary of petitioner in pursuance to the order contained in memo no. 907 dated 10.11.2022 (Ann-1) with appropriate and statutory interest.



3. The brief facts of the case are that the petitioner was appointed as a Medical Officer in 1990 and was later posted in various locations, eventually taking charge of the Primary Health Centre (PHC), Chenari in Rohtas, Bihar. On 05.02.2004, Sohan Lal, Block Extension Educator, and Meena Devi, Lady Health Visitor, submitted their joining letter at the Primary Health Centre, Chenari, Rohtas. The petitioner informed the Civil Surgeon, Rohtas, about their joining at PHC, Chennari, Rohtas, and forwarded the details of their joining to the Director in Chief, Health Services, Bihar, Patna. The Director in Chief, Health Services, Bihar, Patna confirmed the transfer and posting of Sohan Lal and Meena Devi, and also approved their joining and directed for salary payment. The petitioner accepted the joining of both SohanLal and Meena Devi in accordance with the confirmations and directions issued by the Director in Chief, Health Services, Govt. of Bihar, Patna and Civil Surgeon, Rohtas.

4. The learned counsel for the petitioner submits that while the petitioner was discharging his duties as In-charge Medical Officer, PHC, Chennari, Rohtas, he received information that both Sohan Lal and Meena Devi were fictitious persons who joined on the basis of forged and fabricated letters.



He immediately communicated this fact to the Officer-in-charge, Chennari Police Station, Rohtas and requested for institution of an FIR against them. On the basis of the letter dated 06.11.2004, Chennari P.S. Case No.-69/2004 dated 06.11.2004 was instituted against Sohan Lal and Meena Devi and one Sanitary Inspector posted at PHC Chennari, who was instrumental in the above episodes. After the institution of the FIR, Sohan Lal, Meena Devi, and Arvind Kumar disappeared and never turned up at the PHC, Chennari, Rohtas. The petitioner came to know that by changing the name as Tetar Ram and Sheela Devi, the above said Sohan Lal and Meena Devi joined in Kaimur District by adopting fraudulent means. He further submits that surprisingly, the Civil Surgeon, Rohtas vide Memo No. 2902 dated 09.11.20224, issued show-cause notice to the petitioner regarding the illegal joining of Sohan Lal and Meena Devi and illegal withdrawal of their salary and the petitioner vide Memo No. 413 dated 17.11.2004, replied the show cause notice dated 09.11.2004 and explained the circumstances as well as the various orders pursuant to which the joining of Sohan Lal and Meena Devi was accepted by him. The petitioner has also informed that both Sohan Lal and Meena Devi have not withdrawn any retiral benefits nor any payment



against the said head has been made to them. In the meantime, the Deputy Superintendents, Sub-Divisional Hospital, Bhabhua informed the Officer In-charge, Bhabhua Police Station for institution of an FIR against Sheela Devi, who earlier joined in PHC, Chennari, Rohtas as Meena Devi and accordingly, Bhabhua PS Case No.-407/2004 dated 17.11.2004 was registered against the said Sheela Devi @Meena Devi.

5. The learned counsel for the petitioner has further submitted that the petitioner informed the District Magistrate, Kaimur, about the impersonation and fraudulent act of SohanLal and Meena Devi, and the District Magistrate communicated the entire facts to the then Commissioner-cum-Secretary, Health Department and Commissioner-cum-Secretary Finance Department, Govt. of Bihar, Patna, and requested for enquiry. He further submits that on the application of In-charge Medical Officer referral Hospital, Mohania contained in letter no.- 408 dated 25.11.2004, Mohania P.S. Case No. 232/2004 dated 25.11.2004 was instituted against Tetar Ram, who joined in Chennari PHC in the name of SohanLal, however after receiving the reply dated 17.11.2004 of the petitioner, the Civil Surgeon, Rohtas constituted three members committee to enquire and submit the report against the petitioner. It is further



stated that after receiving the reply from the petitioner, the Civil Surgeon, Rohtas *vide* memo no. 3137 dated 04.12.2004 has communicated the entire episode to the then Commissioner-cum-Secretary, Health Department, Bihar, Patna. The Civil Surgeon, Rohtas has also informed the Commissioner-cum-Secretary, Finance Department, Bihar, Patna. He has also stated that three member committee has been constituted to make an enquiry and submit the report and on 11.03.2005. The above said three membered enquiry committee submitted its report to the Civil Surgeon, Rohtas and in specific terms it has been stated in the report that the petitioner is not at all involved in the illegal joining of Sohan Lal and Meena Devi rather it is the petitioner because of whom the illegal act of the said Sohan Lal and Meena Devi had been unearthed.

6. The learned counsel for the petitioner has further submitted that even though the three member enquiry committee had found nothing against the petitioner but *vide* memo no. 1490 dated 21.10.2005 the petitioner was suspended from his post. During suspension period, headquarter of petitioner was fixed in the office of Civil Surgeon, Rohtas. The above said letter of suspension was communicated to the petitioner *vide* memo no-2915 dated 29.12.2005 and as such petitioner was



placed under suspension w.e.f. 29.12.2005. Subsequently, vide memo no.- 1577 dated 11.11.2005, the Deputy Secretary to the Govt. of Bihar, Patna communicated the fact to the petitioner that the decision has been taken to initiate departmental proceeding against him. Mr. B.B. Pandey, Additional Secretary, Health Department, Bihar, Patna was appointed as Conducting Officer and the Civil Surgeon, Rohtas or his representative has been appointed as Presenting Officer. Along with this notification memo of charge was also issued against the petitioner and from perusal of memo of charge, it appears that the petitioner has been held responsible for illegal withdrawal of Rs. 19,64,668 /- which was withdrawn by Sohan Lal and Meena Devi. Along with the memo of charge, no list of witness had been provided to prove the charge as alleged against the petitioner. After receiving the memo of charge, the petitioner submitted his reply to the Conducting Officer and in specific terms has denied the charges as alleged against him. He further submits that vide memo no. 542 dated 22.05.2018, again one Dr. Nageshwar Prasad, Additional Secretary, Health Services was appointed as Conducting Officer and Clerk of Section 9, Health Department was appointed as Presenting Officer.

7. The learned counsel for the petitioner further



submitted that on 17.04.2006, petitioner has submitted his reply to the memo of charge before the newly appointed Conducting Officer i.e., Dr.Nageshwar Prasad. Along with reply, petitioner has submitted altogether 40 documents. After submission of reply by the petitioner only one day i.e., 31.07.2018 was fixed for hearing. On the said date, the petitioner appeared and submitted certain documents. Except this no hearing took place on the said date and even the Presenting Officer has not produced any witness in support of the alleged charged against the petitioner. *Vide* memo no. 100 dated 28.08.2018, the Conducting Officer submitted its enquiry report and perusal of the same goes to show that the petitioner has been found guilty for the charges for which the proceeding was initiated against the petitioner. From perusal of the enquiry report it appears that the Conducting Officer has directed the petitioner to submit letter no.- 62 & 63 dated 06.02.2005 as well as letter no. 119 & 120 dated 16.03.2005 but the petitioner did not provide the same to the enquiry officer is totally incorrect. Petitioner has provided the said documents during the proceeding to the Conducting Officer even though it was not directed either in writing or even verbally during the proceeding. But intentionally the Conducting Officer to punish the petitioner has recorded in the



enquiry report that petitioner has not submitted the said documents.

8. The learned counsel for the petitioner has further submitted that after submission of enquiry report, the Deputy Secretary to the Government, Health Department, Bihar, Patna issued second show-cause notice to the petitioner and has directed the petitioner to submit his response within a fortnight as to why a major punishment be not imposed on him. On 16.11.2018, the petitioner submitted his reply to the second show-cause notice and has highlighted the irregularities which were committed during the departmental proceeding against the petitioner. The petitioner also submitted that he has falsely been implicated in this case and accordingly requested for exoneration from the same. In his reply, the petitioner specifically stated that the only basis for holding the petitioner guilty in the departmental proceeding is not providing the letter no.- 62 & 63 dated 06.02.2005 as well as Letter No.-119 & 120 dated 16.03.2005. It has also been stated that the said letters were never demanded by the petitioner. However, he has again provided the same along with his reply to the second show-cause. *Vide* notification no,-1400 dated 18.11.2019, the Additional Secretary to the Govt., Health Department, Govt. of



Bihar, Patna enquired from the Civil Surgeon, Rohtas as to whether an FIR has been instituted against the then Civil Surgeon, Rohtas or not as after his permission only the retiral benefits were paid to the said Sohan Lal and Meena Devi however, without considering the reply submitted by the petitioner, the Additional Secretary to the Government, Health Department, Bihar, Patna vide memo no.- 907 dated 10.11.2022 issued the impugned order by which three increments with cumulative effect were directed to be withheld.

9. The learned counsel for the petitioner has next submitted that against the impugned order dated 10.12.2022, the petitioner filed an appeal on 22.12.2022 before the Special Secretary, Health Department, Govt. of Bihar, Patna and *vide* memo no.- 415 dated 26.04.2023 the Joint Secretary to the Government, Health Department, Bihar, Patna rejected the appeal of petitioner on the ground that no fresh material has been brought on record by the petitioner. He further submits that the impugned orders have been issued in complete violation of provisions as contained in Bihar CCA Rules, 2005 and the memo of charge has also issued in contrary to the provisions of Rule 17 of Bihar CCA Rules, 2005 as no list of witness has been mentioned in the memo of charge. The Presenting Officer who



was appointed vide memo dated 22.05.2018 even though lower in the rank to the petitioner has never appeared in the proceedings. The Presenting Officer has also not adduced any document in support of the charge. He has also not produced any witness in support of the charge. The enquiry report dated 28.08.2018 shows that the Presenting Officer has never appeared in the proceeding as nowhere in the enquiry report the Conducting Officer has noted the submission of Presenting Officer or even mentioned a word about the Presenting Officer. The enquiry report also shows that the Conducting Officer himself has assumed the power of Presenting Officer and has submitted the report which is illegal in the eye of law.

10. The learned counsel for the petitioner has lastly submitted that the documents which were submitted by the petitioner during the course of proceeding have not been considered by the Conducting Officer which is apparent from the enquiry report. In the proceeding against the petitioner. The Presenting Officer has never appeared, no documents were produced, no witnesses were examined and no hearing as required took place during the proceeding. The Conducting Officer has assumed the charge of Presenting Officer and has submitted the enquiry report. In fact, no proceeding as per law



has been conducted against the petitioner. He further submits that for the same set of allegation two proceedings were initiated against the petitioner. First was the three member committee constituted by the Civil Surgeon, Rohtas and the said Committee vide its report dated 11.03.2005 after considering all the aspects of the matter has found nothing against the petitioner. However, in the departmental proceeding which was also initiated for the same set of allegation, petitioner has been punished by the impugned order. This shows that the petitioner has been made scapegoat by the department of health and nothing else. He further submits that one Din Dayal Upadhayay, Clerk PHC Chennari, District- Rohtas was also proceeded with for the same allegation. However, the said Din Dayal Upadhayay has finally been exonerated and the petitioner has been punished. The action of respondents is illegal, unwarranted, malafide as well as bad in law as also in facts. The action of respondents is violative of Article 14,16& 21 of the Constitution of India. It is also violative of provisions of Bihar CCA Rules, 2005.

11. Learned counsel for the petitioner has relied upon judgments of the Hon'ble Supreme Court in the case of ***Kranti Associates Private Limited & Anr. Vs. Masood Ahmed***



Khan & Ors. reported as ***(2010) 9 SCC 496*** and ***Delhi Transport Corporation vs. Ashok Kumar Sharma*** reported as ***2024 SCC OnLine SC 1871***.

12. The learned counsel for the State has opposed the prayer of the petitioner and has filed a counter affidavit and has submitted that the impugned order of punishment as well as the appellate order have been passed in accordance with law after giving adequate opportunity to the petitioner as per the provision stipulated under Bihar CCA Rules, 2005. It is further stated that initially, the petitioner vide Departmental Notification No. 1490 (9) dated 21.10.2005 (vide Annex-P/15) was placed under suspension with immediate effect in contemplation of departmental proceeding on the charge of making payment to fake employees and thereafter, vide Health Department's Memo No. 1577 (9) dated 11.11.2005 (vide Annex-16), the State Government decided to conduct departmental proceeding against the petitioner under Rule 55 of the Civil Services (Classification, Control & Appeal), Rules on the charge of making wrong payments to fake employees on the basis of transfer namely Sohan Lal and Smt. Meena Devi to the tune of Rs. 941542/- and Rs. 1023126/- total Rs. 1964668/- under the head of retirement benefits while petitioner was



posted as Medical Officer, Primary Health Centre, Chenari, Rohtas.

13. It is further stated that somehow, the departmental proceeding could not be completed for a very long period and ultimately, *vide* Health Department's amended resolution issued vide Memo No. 542 (9) dated 22.05.2018 departmental proceeding was initiated against the petitioner in which Additional Director, Health Service, Bihar was appointed as Conducting Officer and Section Officer-09 was appointed as Presenting Officer and thereafter, Enquiry Officer submitted his report vide Memo No. 100 dated 28.08.2018 wherein he found the charge as proved. Thereafter, *vide* Health Department's Letter No. 1148 (9) dated 05.10.2018 (vide Annex-P/20), second show cause notice was issued against the petitioner enclosing therewith copy of enquiry report and ultimately, after due examination of the facts and circumstances, petitioner the with has been imposed punishment of withholding increments three with.

14. I have heard and considered the submissions of the parties and have gone through the records of the case.

15. The Hon'ble Supreme Court in the case of ***Kranti Associates Private Limited*** (supra) has summarized the



principals and paragraph 47 of the aforesaid judgment reads as under:

“47. Summarizing the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate



by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37] .)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, “adequate and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence



and is virtually a part of “due process”.

16. Subsequently, the Hon’ble Supreme Court in the case of **Delhi Transport Corporation** (supra) has held as under:

“17. Furthermore, the agenda item which was circulated by the CMD for consideration of the Board (reproduced supra) clearly indicates that the Board was to take a decision in the matter while considering the facts of the case and the reply submitted by the charged officer in response to the show cause notice dated 15th April, 2009. However, other than giving a blind approval to the show cause notice and the agenda item albeit referring to the reply of the charged officer, the Board's Resolution dated 29th April, 2009 does not reflect any independent or objective application of mind by the members of the Board to the enquiry report either individually or collectively. In this regard, reference may be made to the judgment rendered by this Court in the case of A.L. Kalra v. Project & Equipment Corporation of India Ltd.¹ the relevant paragraph thereof is reproduced hereinbelow for the sake of ready reference:—

“29. The situation is further compounded by the fact that the disciplinary authority which is none other than Committee of Management of the Corporation while accepting the report of the inquiry officer which itself was defective did not assign any reasons for accepting the report of the inquiry officer. After reproducing the findings of the inquiry officer, it is stated that the Committee of Management agrees with the same. It is even difficult to make out how the Committee of Management agreed with the observations of the inquiry officer because at one stage while recapitulating the evidence the inquiry officer unmistakably observed that appellant was subjected to double punishment and at other place, it was observed that granting extension of time and acceptance of documents and balance advance would tantamount to extending the



time which would make the affair look wholly innocuous. This shows utter non-application of mind of the Disciplinary Authority and the order is vitiated.”

17. From the perusal of the impugned orders, it is apparent that the respondent authorities have only reiterated the facts and allegations of the case and have failed to record specific reasons to arrive at a conclusion. It is settled that not providing reasons is antitheses to well reasoned and speaking orders.

18. In the impugned order neither any specific reason has been assigned nor the explanation submitted by the petitioner has been duly considered. A mere reiteration of the allegations are made in the impugned order. The disciplinary authority ought to have passed the impugned punishment order only after recording the reasons, since from the reasons assigned in the impugned order, it could have been inferred whether the disciplinary authority had applied its mind in order to arrive to the conclusion in the form of punishment or not. In the present case the Disciplinary Authority has itself not examined the evidences and materials produced during the course of enquiry and once the disciplinary authority has failed to record such reasons in the punishment order, the same can not be sustained. The impugned order is therefore cryptic and non-speaking order



and is no order in the eye of law. This kind of cryptic and non-speaking orders does not reflect any independent or objective application of mind by the respondent authorities and therefore, the same are bad in law and are hereby quashed.

19. Considering the law laid down by the Hon’ble Supreme Court and the fact that the impugned order is bereft of the reasons, the writ petition stands allowed.

20. Accordingly, the notification contained in memo no. 907 dated 10.11.2022 issued by the Additional Secretary to the Government, Health Department, Govt. of Bihar and the appellate order contained in memo no.-415, dated 26.04.2023 issued by the Joint Secretary to the Government, Health Department, Govt. of Bihar, Patna are hereby quashed.

(Sandeep Kumar, J)

Shishir/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16. 09.2025.
Transmission Date	N/A

