

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23825 of 2013

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Sabita Sinha Wife of Om Prakash, Resident of Village-Lodipur, P.O.-
Chandmari, P.S.-Shahpur, District-Patna, Pin Code-801503 (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary to the Government of Bihar, Main Secretariat, Patna-800015.
2. The Secretary, Department Of Minor Water Resources Tube-Well Government Of Bihar, Visheshwaraih Bhawan, Bailey Road, Patna- 800001.
3. The Project Co-Ordinator, Department Of Minor Water Resources Tube-Well Division Government Of Bihar, Visheshwaraih Bhawan, Bailey Road, Patna- 800001.
4. The Chief Engineer South , Department Of Minor Water Resources, Tube - Well Division Government Of Bihar, Sheikhpura, Bailey Road, Patna- 800014.
5. The Superintending Engineer, Tube-Well Circle, Department Of Minor Water Resources, Tube-Well Division Government Of Bihar, Sheikhpura, Bailey Road, Patna- 800014.
6. The Executive Engineer, Tube-Well Division Department Of Minor Water Resources Government Of Bihar, Nawadah Bihar.
7. The District Treasury Officer, Nawadah, District - Nawadah Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Munna Prasad Dixit, Advocate
For the Respondent/s	:	Mr. Vikash Jha, Adv.
		Mr. Ajit Kumar, AC to GA-9

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 28-07-2025

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

2. The present writ petition has been filed for
setting aside the orders dated 22.09.2012 and 19.09.2013 passed
by the Disciplinary Authority and the Appellate Authority



(Respondent Nos. 4 and 3), as contained in Annexures-5 and 7, by which multiple punishments (both Minor and Major) were imposed simultaneously. The issuance of the charge sheet dated 07.09.2011, as contained in Annexure-1, has also been challenged. Further, the petitioner seeks restoration of pay and status as on 21.09.2012, i.e., prior to the punishment dated 22.09.2012, along with all consequential benefits including arrears of salary for the suspension period and the amount already paid as subsistence allowance.

3. Learned counsel for the petitioner submits that the petitioner was working as a Treasure Guard in the Tub-well Sub-Division, Naubatpur Tub-well Division, Patna (W), Bihta, and he received a charge sheet dated 07.09.2011 issued by Respondent No. 4, containing allegations of indiscipline, lack of devotion to duty, and violation of conduct rules. Further, the petitioner was placed under suspension, and Respondent No. 5 was appointed as the Enquiry Officer in the departmental proceeding.

4. He further submits that the issuance of the charge memo is absolutely illegal and in gross violation of Rules 17 and 19 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as the



'CCA Rules, 2005'). It is further submitted that the enquiry report dated 23.05.2012 indicates that the charge levelled against the petitioner was not proved. However, the petitioner received a disagreement memo vide Letter No. 793 dated 06.09.2012, in which reason was not assigned and went beyond the findings of the Enquiry Officer. After receipt of the said notice, the petitioner submitted his reply on 10.09.2012. Thereafter, vide order dated 22.09.2012, multiple punishments (both minor and major) were imposed upon him. Counsel further submits that the methodology for imposing minor and major penalties is distinctly prescribed under the CCA Rules, 2005. He states that the said issues were raised before the respondent authorities in an appeal filed on 29.10.2012, but the appeal was also rejected vide order dated 19.09.2013.

5. In support of his argument, counsel submits that the basic law is in favour of the petitioner. He further submits that the charge memo issued to the petitioner was made in gross violation of Rule 17(3) of the CCA Rules, 2005. Despite the fact that the enquiry report found the charge to be not proved, a disagreement memo was issued, in which points were discussed that were not part of the original charge.

6. He further submits that in the disagreement



memo, it was categorically stated by the Disciplinary Authority that certain material evidence was not available. He submits that in response to the second show-cause notice, the petitioner submitted a detailed reply, but none of the points raised therein were considered, and the final order was passed without due application of mind. He further submits that the issuance of the disagreement memo was in gross violation of Rule 18(2) of the CCA Rules, 2005. Moreover, under Rule 18(4), it is mandatory for the Disciplinary Authority to pass a reasoned order after considering the reply and findings, however, the punishment order fails to record any reasoning, except for a single-line statement. He also submits that from the punishment order, it is evident that both minor and major punishments were imposed simultaneously, which is impermissible. There are specific provisions for imposing minor and major punishments, and both cannot be imposed together.

7. In support of his argument, learned counsel relied on the judgment passed by the Hon'ble Supreme Court of India in *Union of India & Anr. v. S.C. Parashar*, reported in (2006) 3 SCC 167. He specifically relied on paragraph 12 of the judgment, wherein it has been held that the amalgamation of minor penalty and major penalty passed by the Disciplinary



Authority is without jurisdiction and such a course of action could not have been taken in law.

8. Counsel further submits that during the pendency of the writ petition, the petitioner (delinquent) passed away, and in his place, his legal representative, i.e., his wife, has been substituted to pursue and defend the case by virtue of I.A. No. 6768 of 2017, which was allowed on 05.07.2023.

9. Counsel for the petitioner conclusively submits that, in light of the above discussion, both the original and appellate orders are not sustainable in law, and the petitioner is entitled to all consequential benefits as if there were neither any charge, nor disciplinary order, nor appellate order had been passed against the petitioner.

10. Learned counsel for the State, on the other hand, vehemently opposes the prayer made by the petitioner. He submits that a proper charge memo was issued against the petitioner for his indisciplined behaviour, followed by the initiation of departmental proceedings under the CCA Rules, 2005. Counsel further submits that the petitioner participated in the departmental enquiry and submitted his written statement. However, he fairly accepts that the enquiry report indicates that the charges were not proved against the petitioner.



11. He further submits that the Disciplinary Authority disagreed with the conclusion of the Enquiry Officer, and for this reason, a disagreement memo was issued vide Letter No. 793 dated 06.09.2012. He also submits that the petitioner filed a reply to the second show-cause notice, which was found to be unsatisfactory. Consequently, the petitioner was imposed the punishment of censure for the year 2011–12, along with stoppage of two increments with cumulative effect, and with the direction that the petitioner would not receive anything for the suspension period except subsistence allowance, though the said period would be counted for pension purposes.

12. Counsel further submits that, being aggrieved and dissatisfied with the order passed by the Disciplinary Authority, the petitioner preferred an appeal before the Appellate Authority, and upon consideration of the memo of appeal, the Appellate Authority passed an order dated 19.09.2013, by which the appeal was dismissed.

13. Counsel further submits that, in the present departmental proceeding, there has been no violation of the principles of natural justice, all applicable rules have been duly followed, and the punishment awarded to the petitioner is commensurate with the charges proved against him. He further



submits that, in a writ petition, the scope of writ jurisdiction is very limited, particularly when there is no violation of any rule or procedure, no breach of natural justice, and the punishment imposed is proportionate to the charges proved against the delinquent.

14. Upon hearing the parties, it transpires to this Court that the charge memo, issued vide Annexure-1, was required to be framed in accordance with Rule 17(3) of the CCA Rules, 2005, which mandates that the names of witnesses and specific charges must be clearly mentioned, both of which are evidently lacking in the present case. It further transpires that the enquiry report indicates that the charges were not proved. But, issuance of disagreement memo has been made completely in accordance with law but in the disagreement memo those points have been discussed which is not part of the charges. Notably, the Disciplinary Authority himself reached on the conclusion that there was no evidence of indisciplined behaviour.

15. In the absence of such evidence, the Disciplinary Authority ought to have either appointed a fresh Enquiry Officer or adduced fresh evidence regarding the alleged indiscipline. However, instead of adopting either course, the



Disciplinary Authority proceeded directly to issue a second show-cause notice. In response to the second show-cause, the petitioner raised several points, but the final order does not indicate any discussion or reasoning by the Disciplinary Authority, which is already indicated in Rule 18(4) of the CCA Rules, 2005.

16. From the Disciplinary Authority's order, which is Annexure-5, it is evident that there is no discussion whatsoever on the second show-cause reply, except a mere mention that the second show-cause has been filed. Therefore, the order passed by the Disciplinary Authority is absolutely in violation of the provisions laid down under the CCA Rules, 2005.

17. It also transpires to this Court that the points raised in the memo of appeal were not considered by the Appellate Authority. The appellate order merely contains a one-line statement to the effect that, upon consideration, the appeal has been rejected. In law, an appeal requires a re-consideration of the entire case as decided by the Original Authority, however, in the present case, such reconsideration is entirely lacking.

18. This Court finds it necessary to quote paragraph 12 of the judgment passed by the Hon'ble Supreme Court of



India in the case of *Union of India & Anr. v. S.C. Parashar*, reported in (2006) 3 SCC 167, which reads as follows:-

“The penalty imposed upon the respondent is an amalgam of minor penalty and major penalty. The respondent has been inflicted with three penalties: (1) reduction to the minimum of the timescale of pay for a period of three years with cumulative effect; (2) loss of seniority; and (3) recovery of 25% of the loss incurred by the Government to the tune of Rs 74,341.89p. i.e. Rs 18,585.47p. on account of damage to the Gypsy in 18 (eighteen) equal monthly instalments. Whereas reduction of timescale of pay with cumulative effect is a major penalty within the meaning of clause (v) of Rule 11 of the CCS Rules, loss of seniority and recovery of amount would come within the purview of minor penalty, as envisaged by clauses (iii) and (iii)(a) thereof. The disciplinary authority, therefore, in our opinion acted illegally and without jurisdiction in imposing both minor and major penalties by the same order. Such a course of action could not have been taken in law.”



19. In the present case, it transpires that, in the final order, both major and minor penalties were imposed simultaneously by the respondent authority. Therefore, in light of the judgment of the Hon'ble Apex Court referred to above, this Court has no option but to hold that the punishment order is bad in law and not sustainable in the eyes of law.

20. This Court is further of the view that the charge memo itself is defective, and when the charge memo fails to meet the requirements of Rule 17(3) of the CCA Rules, 2005, the charge memo dated 07.09.2011 (Annexure-1), the order passed by the Disciplinary Authority contained in Letter No. 871, dated 22.09.2012 (Annexure- 5) and the order passed by the Appellate Authority contained in Memo No. 1667, dated 19.09.2013 (Annexure-7) all become unsustainable in the eyes of law and are accordingly set aside.

21. Accordingly, the present writ petition stands allowed.

22. It is made clear that since the present writ petition is being pursued by the petitioner's wife, being the legal representative of the deceased delinquent, it shall be appropriate for this Court to observe that the respondent authorities shall pay all admissible dues to the petitioner, i.e., the wife of the



deceased delinquent, within four months from the date of
production of a copy of this order.

(Dr. Anshuman, J.)

Aman Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.08.2025
Transmission Date	NA

