

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 8015 of 2023

Manish Kumar Son of Sri Lalan Prasad Singh Permanent resident of Village-
Tetarpur, P.S- Tekari, P.O- Panchanpur, District- Gaya, Presently residing at
Kamla Apartment, Flat No. 104, Kurji Balupar, P.S.- Digha, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Additional Chief Secretary, Home Department, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Additional Director General of Police (Headquarter), Personnel and Welfare Division, Bihar, Patna.
4. The Inspector General of Police (Headquarter), Personnel and Welfare Division, Bihar, Patna.
5. The Deputy Inspector General of Police (Personnel), Personnel and Welfare Division, Bihar, Patna.
6. The Inspector General of Police (Central Range), Patna.
7. The Senior Superintendent of Police, Patna.
8. The Superintendent of Police (Traffic), Patna.
9. The City Superintendent of Police (West), Patna.
10. The Additional Superintendent of Police, Phulwarisharif, District- Patna.
11. The Station House Officer -cum- Police Inspector, Beur Police Station, District- Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr Abhinav Srivastava, Sr Advocate with Mr Ravi Kumar Panday, Advocate
For the Respondent/s	:	Mr Suman Kumar Jha, AC to AAG III

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 24-02-2025

This petition has been preferred by the petitioner
seeking the following reliefs:

***“a) To quash order of punishment
dated 15.12.2022 as contained in Memo No 798***



dated 20.12.2022 in Disciplinary Proceeding No 88 of 2021 issued by the Respondent No 2 (who was not the Disciplinary Authority) whereby and where under the Petitioner was awarded punishment of compulsory retirement in a most mechanical and arbitrary manner without following the procedure prescribed under the relevant Rules or complying with the principles of natural justice.

b) For a direction upon the Respondents to reinstate the Petitioner and grant all consequential benefits including payment of salary, other benefits and continuity in service.

c) To pass any other order/orders in shape of a consequential relief to which the Petitioner may be found to be legally entitled to in the facts and circumstances of the instant case at hand.

(d) To quash the Appellate Order as contained in Memo No 11670 dated 26.09.2023 issued by the Home Department (Police Branch), Government of Bihar, Patna whereby and where under memorial of appeal and supplementary memorials filed by the petitioner against the order of punishment dated 15.12.2022 as contained in Memo No 798 dated 20.12.2022 (Annexure P/8 to the writ application) was rejected in a most mechanical and arbitrary manner without following the procedure prescribed under the relevant Rules or complying with the principles of natural justice against the petitioner.”

2 Brief facts of the case are that initially, the petitioner was appointed on 12.02.2009 on the post of Police Sub Inspector. He joined his services on 18.02.2019. His services were confirmed on 02.08.2012. subsequently, he was granted pomotion



to the post of Police Inspector on 02.12.2018. At the relevant time, i.e. in the year 2021, he was posted as SHO -cum- Police Inspector, Beur Police Station. On 29.12.2020, an FIR being Beur PS Case No 368 of 2020 was registered upon a written complaint of the informant against six named accused persons for the offence punishable under Sections 341, 323, 307, 504, 506, 448, 379/34 of the IPC. It was alleged in the FIR that named accused persons assaulted and abused the wife of informant. The case was handed over for investigation to Sub Inspector Raj Kishore Rai. During the course of investigation, the wife of the informant died. Being an SHO, the petitioner supervised the said investigation and prepared his supervision note vide Memo No 232 of 2021 dated 27.01.2021. Subsequent to that, four named accused persons were arrested. Later on, the said case was again supervised by Additional Superintendent of Police, Phulwarisharif and the case was found to be not true and appropriate proceedings under Sections 182/211 of the IPC was recommended against the informant. Thereafter, a show cause was sought from the petitioner by the Senior SP, Patna vide Memo No 2502 dated 16.05.2021 alleging therein that due to wrong supervision of the case by the petitioner, four innocent persons were wrongly taken into custody. Show cause was replied by the petitioner and



subsequently, without considering the reply submitted by the petitioner, a departmental enquiry was initiated against him vide Memo No 1577 dated 14.07.2021 issued by respondent No 6. The SP (Traffic) (respondent No 8) was appointed as the enquiry officer and the Additional SP, Phulwarisharif (respondent No 10) was appointed as the presenting officer. After completion of enquiry, the enquiry officer submitted his enquiry report. It was found by him that all the charges against the petitioner were proved. The disciplinary authority issued the second show cause notice to the petitioner which has been replied by the petitioner and, thereafter, vide the impugned order dated 15.12.2022, the disciplinary authority passed the order of major punishment, i e, compulsory retirement from the services against the petitioner. This order has been assailed by the petitioner which has also been rejected by the appellate authority vide its order dated 26.09.2023. Hence, this petition.

3 Learned counsel for the petitioner would submit that in the enquiry proceeding, the enquiry officer did not give the proper opportunity of cross examination of the witnesses. On the contrary, the petitioner was only allowed to ask written question from the witnesses. Therefore, there is a clear cut violation of principles of natural justice present here. He further submits that



the defence taken by the petitioner was neither considered by the enquiry officer nor the disciplinary authority. In his defence, it was categorically mentioned by the petitioner that the bail application preferred by the four accused persons were rejected by the learned Additional Chief Judicial Magistrate III in Beur PS Case No 368 of 2020. It was observed by the Court that the police official submitted final form in the case despite there being incriminating material like statements of witnesses and medical evidence on record. Learned counsel submits that the final form (closure report) submitted by the police has not been accepted by the concerned trial Court. Thus, it is well established that the petitioner has given his supervision note as per the material available on record, i.e. statements of witnesses as well as medical evidence. Therefore, on this ground also, the impugned orders passed by the respondents are liable to be set aside. Lastly, he submits that the entire allegation levelled against the petitioner in the charge memo is taken as it is then also it cannot be said to be a misconduct rather it is a negligence or innocent mistake of the petitioner. Reliance has been placed by the counsel on the judgment passed by this Court in ***LPA 900 of 2024*** in the case of ***State of Bihar & Others -Versus- Md Muttafique Ahmad***.



4 Learned counsel for the respondent-State opposes the arguments raised by the learned counsel for the petitioner.

5 I have heard learned counsel appearing for both the parties. Perused the entire material available on record.

6 Perusal of the charge memo clearly shows that the only allegation levelled against the petitioner is that he has submitted a wrong supervision note, therefore, four persons were wrongly taken in custody. This charge was found proved by the enquiry officer. However, the order dated 04.06.2021 passed by the learned ACJM III, Patna (Annexure P/13) clearly shows that the trial Court rejected the bail applications submitted by the four accused persons and it was observed by the Court that there is sufficient evidence (oral statements and medical evidence) available on record against the accused persons. This fact has also been mentioned by the petitioner in his reply to show cause before the enquiry officer but the enquiry officer as well as the disciplinary authority did not consider the above.

7 Perusal of the charge memo also shows that with the charge memo, along with imputation of charges, list of documents and list of witnesses were also supplied to the petitioner. There were five witness cited by the Department. The enquiry report further shows that though the above cited witnesses were



examined by the enquiry officer but they were not cross examined by the petitioner rather the enquiry officer allowed the petitioner to ask written questions from the witnesses which is evident in paragraph 3 of the enquiry report. It further shows that on the direction given by the enquiry officer, the petitioner submitted written questions to be asked from the witnesses but except the confidential interpreter of the Senior SP, none of the witnesses have replied the said question. Thus, it is clear that proper opportunity of cross examining the witnesses have not been provided to the petitioner.

8 Perusal of the charge memo further shows that the only allegation against the petitioner is that he prepared a wrong supervision note and, therefore, the four innocent persons were taken in custody. In the considered view of this Court, the above allegation levelled against the petitioner if taken as it is, then also it does not amount to any misconduct rather it appears to be an innocent mistake. It would be pertinent to mention here that the concerned trial Court, while rejecting the bail application of the four accused persons, has categorically observed that there was sufficient material (oral evidence as well as medical evidence) available on record to implicate the accused persons in the alleged crime. Therefore, it cannot be said that the petitioner wrote a



wrong or faulty supervision note. Dealing with the issue, a Division Bench of this Court in the case of *State of Bihar & Others -Versus- Md Muttafique Ahmad (supra)* observed and held at paragraph 26 as follows:

“26. The judgment by the learned Single Judge has dealt with all the charges and the incorrectness of the conclusion in great detail. The misconduct of a police officer for attracting punishment has been enunciated clearly by the Supreme Court in Inspector Prem Chand v Govt of NCT of Delhi & Ors 2007 (4) SCC 566. in the aforementioned judgment reference has been made to the judgment in Union of India v J Ahmed, (1979) 2 SCC 286 which indicates that a conduct would be blameworthy only in the context of the Conduct Rules and if it is stated to be a misconduct. Misconduct means action arising from ill-motive. Acts of negligence or an error of judgment or innocent mistake would not constitute any misconduct.”

9 In the light of the above observations made by the Division Bench of this Court, on examination of the facts of this case, it is quite clear that the alleged act done by the petitioner was only said to be an act of negligence or error or innocent mistake. It cannot be constituted to be any misconduct.

10 For the reasons mentioned herein above and for the reasons as discussed earlier, I am of the view that the impugned orders dated 15.12.2022 and 26.09.2023 are liable to be set aside. Accordingly, both the orders are hereby quashed and set aside.

11 This writ petition is allowed.



12 The respondents are directed to reinstate the petitioner, if the petitioner has not superannuated and give all consequential benefits to him for which he is entitled to.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.02.2025
Transmission Date	NA

