

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5380 of 2017

Dr. Dinesh Singh S/o Late Shri Ram Chandra Singh Resident of Jyoti Kunj,
Ima Path, Ward No. 20, Sri Krishna Puri, P.O. and P.S.-Begusarai Sadar,
District-Begusarai, Bihar, Presently Posted as Medical Officer, Sub-
Divisional Hospital, Dalsingsarai, Dist-Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. The Deputy Secretary-Cum-Chief Vigilance Officer, Health Department, Government of Bihar, Patna.
4. The Under Secretary, Health Department, Government of Bihar, Patna
5. The Joint Director, Health Services, Bihar Patna
6. The Regional Deputy Director, Health Services, Darbhanga Division, Darbhanga.
7. The District Magistrate, Begusarai.
8. The Civil Surgeon-Cum-Chief Medical Officer, Begusarai

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Nikhil Kumar Agrawal, Advocate Ms. Aditi Hansaria, Advocate Mr. Yash Sahay, Advocate Mr. Keshav Bhardwaj, Advocate
For the State	:	Mr. Mujtabul Haque (GP-12) Mr. Pranoy, Kumar (AC to GP-12)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 24-06-2025

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

2. The present writ petition has been filed for the
following relief/s:-

*“I. For quashing of the order dated
10.06.2016 contained in Memo No.643(9)*



dated 14.06.2016 (annexed as Annexure-10), whereby punishment has been imposed on the petitioner despite his exoneration by the Enquiry Officer and despite the recommendation of the Enquiry Officer to revoke the suspension.

II. For quashing of the order dated 29.12.2016 contained in Memo No. 29(9) dated 10.01.2017 (annexed as Annexure-13), whereby the appeal filed by the petitioner against the order of punishment has been rejected on the technical ground of limitation.

III. For setting aside the entire departmental proceeding initiated vide Memo No. 365 dated 26.03.1992 against the petitioner as the same is discriminatory.

IV. For directing the respondent authorities to pay all consequential benefits to the petitioner including arrears of salary after taking into consideration all the promotions, increments and pay revisions applicable to the Petitioner along with interest thereupon.

V. For any other relief(s) that the petitioner is entitled to in the facts and circumstances of the case.”

3. Learned counsel for the petitioner submits that



the petitioner was appointed as Medical Officer *vide* Memo No.308 dated 15.03.1988 and he was posted at Primary Health Centre, Kateya, Gopalganj and subsequently, petitioner was transferred to Additional Primary Health Centre, Mohanpur, Begusarai where he assumed charge as In-charge Medical Officer on 05.10.1989. Since then, the petitioner was discharging his duty to the best of his abilities and to the satisfaction of all concerned. Counsel submits that when the petitioner was posted at Mohanpur, he addressed several letters to the respondent authorities bringing to their attention the dilapidated and apathetic condition under which the Health Centre was functioning. Counsel submits that on 14.04.1991 (Sunday), a surprise inspection of the Health Centre was conducted by the then Minister, Health Department at 10 am who found the petitioner absent from the Health Centre and thereafter, an inquiry was conducted which resulted into petitioner's suspension. Counsel submits that one another Medical Officer who was also posted at that very place was also put under suspension on 19.08.1991. Counsel further submits that a departmental proceeding was initiated against the petitioner *vide* Memo No.365 dated 26.03.1992 and petitioner was also served with a memo of charge on 12.03.1992.



However, there was no list of documents or witnesses attached with the said charge memo.

4. Learned counsel for the petitioner further submits that there were three charges levelled against the petitioner. First charge was relating to unauthorized absent from the Additional Primary Health Centre. Second was relating to the residential quarters of the Medical Officers which were found to be in good condition, but, the said quarters were locked. Third charge was that the local villagers informed that the Medical Officers do not come to the Health Centre. Counsel submits that the petitioner submitted a detailed reply on 27.04.1992 with regard to the charges levelled against him to the Enquiry Officer and prayed for exoneration. Counsel submits that the petitioner has provided full support in the disciplinary proceeding and report has been submitted by the Enquiry Officer on 06.06.1992 in which, petitioner was exonerated from all three charges levelled against him. Counsel submits that after being exonerated from the charges levelled against him, recommendation was made by the Enquiry Officer, for recalling the petitioner's suspension. But his suspension was never removed. Petitioner has requested series of letters in this regard, but nothing happened. Counsel submits that all of a



sudden, petitioner received order dated 10.06.2016 contained in Memo No.643(9) dated 14.06.2016 (annexed as Annexure-10), whereby the Department, being dissatisfied with the report of the Enquiry Officer has passed punishment order imposing punishment of censure, withholding of promotion and withholding of 3 increments of pay without cumulative effect. Counsel further submits that the said order of punishment has been passed in gross violation of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'Bihar CCA Rules, 2005'). As in-spite of the fact that the Enquiry Officer has exonerated the petitioner, disagreement memo has not been served nor second show cause has been demanded from him and directly punishment order has been passed on the basis of report of a Three Men Committee about which, the petitioner was completely unknown. Counsel also submits that the report of Three Men Committee has never been provided to the petitioner and the findings of the said committee report indicates a separate charge which was not present in the earlier charge memo on which proceeding was conducted. On the basis of Three Men Committee findings, petitioner has been punished as in the punishment order, said finding has been indicated. Counsel further submits that the



Disciplinary Authority has adopted a procedure which is unknown to the service jurisprudence under which the proceeding has to be conducted, only after memo of charge as mentioned in Bihar CCA Rules, 2005. Counsel further submits that the petitioner after receiving such punishment order dated 10.06.2016 contained in Memo No.643(9) dated 14.06.2016 had preferred appeal before the Appellate Authority, but the Appellate Authority has also not considered the case of the petitioner and his appeal has been dismissed *vide* order dated 29.12.2016 contained in Memo No. 29(9) dated 10.01.2017 (annexed as Annexure-13). Thereafter, petitioner has no option, but to move before this Hon'ble Court to challenge both the orders i.e. original order as well as the appellate order and it is due to these reasons, petitioner has filed the present writ petition.

5. Learned counsel for the State on the other hand submits that there is no need of any interference in the orders passed by the Original Authority as well as the Appellate Authority, as both the orders have been passed completely in accordance with law. Counsel submits that the charge memo has been issued to the petitioner after inspection of the then Minister and thereafter, a departmental proceeding has been initiated



against the petitioner. Counsel submits that it is true that in the departmental proceeding, petitioner was exonerated from all the three charges levelled against him, but it is well within the ambit of the Disciplinary Authority to disagree from those charges. In this case, Three Men Committee has been constituted at the Chairmanship of Officer on Special Duty, Health Department, Bihar, Patna for making enquiry to the activities of the petitioner prior to suspension period and during suspension period. Counsel further submits that the Three Men Committee has submitted a report and on the basis of the said report, opportunity of hearing was given to the petitioner with a direction to appear before the Officer on Special Duty, Health Department, Bihar, Patna on 20.01.2015 and alongwith this communication, the complaint application of the then Vice Chairman, Bihar Legislative Assembly, Bihar was sent to the petitioner. Counsel submits that the time was granted to the petitioner to defend himself and several dates were fixed for hearing and in this regard, letters were communicated to the petitioner. Lastly, the Three Men Committee submitted their report on 16.03.2016 and came to a definite finding that the petitioner is suspended till the date of issuance of the suspension letter dated 19.08.1991. Secondly, in the light of Resolution



No.365 (18) dated 26.03.1992, the departmental proceeding was initiated by the then Regional Deputy Director, Health Services, Darbhanga and enquiry report was sent to the department on 06.06.1992. But, due to absence of the report, no further action could be taken by the department. It has also come in the report of Three Men Committee that no request was made by the petitioner to the Government for revoking his suspension except his written defence dated 27.04.1992. Further finding has come in the said report of Three Men Committee that payment of suspension allowance to the petitioner has been done till October, 2011 and he has not been paid regular salary. Another finding has come that since, petitioner has running a private clinic and evidence in this regard has been mentioned in Clause-9 of this report. Counsel submits that thereafter, this matter was duly examined by the department and also taking into account both the enquiry reports dated 06.06.1992 as well as subsequent report of Three Men Committee which was initiated on the basis of further complaint, opportunity of hearing was given to the petitioner and ultimately, disagreeing with the enquiry report dated 06.06.1992, the impugned order dated 10.06.2016 contained in Memo No.643(9) dated 14.06.2016 has been passed in which punishment has been inflicted upon the



petitioner and the period of suspension has also been decided in which it has been said that nothing will be paid except subsistence allowance to the petitioner till October, 2011 and after October, 2011, the presence of the petitioner in the headquarter has not been recorded so, it is clear that he was not stayed at headquarter hence, he will not be paid any amount for the said period. Counsel further submits that the appeal of the petitioner has also been rejected *vide* order dated 29.12.2016 contained in Memo No. 29(9) dated 10.01.2017 and in this view of the matter, it transpires that every time, the opportunity has been granted to the petitioner and there is no need of any interference in the present writ petition and the same may be dismissed.

6. In the light of the submissions made by the parties, it transpires to this Court that the petitioner is a Government Servant and departmental proceeding has to be conducted by the Bihar CCA Rules, 2005. Both party admits that charge memo has been issued to the petitioner, he has filed his written statement and upon hearing the parties, the Enquiry Officer has exonerated the petitioner from all the three charges levelled against him. Under the Bihar CCA Rules, 2005, there is a specific provision laid down under Rule 18 of the Bihar CCA



Rules, 2005 that the Disciplinary Authority upon receiving the enquiry report has three options.

7. Firstly, the Disciplinary Authority may remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 17 as far as may be. Secondly, the Disciplinary Authority shall if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own finding on such charge, if the evidences on record is sufficient for the purpose. Thirdly, the Disciplinary Authority shall consider the representation or submission, if any, submitted by the Government Servant before proceeding further in the manner specified in sub rules (5) and (6).

8. But, here in the present case, it transpires from the record that the Disciplinary Authority has opted none of the options which is categorically mentioned in Rule 18 of the Bihar CCA Rules, 2005 which is quoted as under:-

“(1) The disciplinary authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, may remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall



thereupon proceed to hold the further inquiry according to the provisions of Rule 17 as far as may be.

(2) The disciplinary authority, after receipt of the enquiry report as per Rule 17 (23) (ii) or as per sub-rule (1), shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own finding on such charge, if the evidences on record is sufficient for the purpose.

(3) The disciplinary authority shall forward or cause to be forwarded a copy of the inquiry report, together with its own findings, if any, as provided in sub-rule (2), to the government servant who may submit, if he or she so desires, his or her written representation or submission to the disciplinary authority within fifteen days.

(4) The disciplinary authority shall consider the representation or submission, if any, submitted by the Government Servant before proceeding further in the manner specified in sub rules (5) and (6).

(5) If the disciplinary authority having regard to its findings on all or any of the articles of charge, is of the opinion that any of the penalties specified in clauses (i) to (v) of Rule 14 should be imposed on the



Government Servant, it shall, notwithstanding anything contained in Rule 19, make an order imposing such penalty.

(6) If the disciplinary authority, having regard to its findings on all or any of the articles of charge and on the basis of the evidence adduced during the inquiry is of the opinion that any of the penalties specified in clauses [(vi) to (xi)] [Substituted by Notification No. 3/M-166/2006-Ka-2797, dated 20.8.2007.] of Rule 14 should be imposed on the Government Servant, it shall make an order imposing such penalty and it shall not be necessary to give the Government Servant any opportunity of making representation on the penalty proposed to be imposed.

(7) Notwithstanding anything contained in sub-rules (5) and (6), in every case where it is necessary to consult the Commission, the Commission shall be consulted and its advice shall be taken into consideration before making any order imposing any penalty on the Government Servant.”

9. It transpires to this Court from the documents and arguments that in-spite of following the rule laid down



under Rule 18 of the Bihar CCA Rules, 2005, a unique method has been adopted and another allegation petition has been entertained and Three Men Committee has been constituted. This Court is of the firm view that the Disciplinary Authority or the higher authority may disagree or conduct another enquiry against the petitioner, but, for taking any action on the basis of report of Three Men Committee, further opportunity has to be granted and further disciplinary proceeding has to be conducted only according to Rule 18 of the Bihar CCA Rules, 2005 and not otherwise. There is lacking of all those in the present case.

10. This Court also finds that the final order dated 10.06.2016 contained in Memo No.643(9) dated 14.06.2016 has been passed in gross violation of the rules laid down under Bihar CCA Rules, 2005 and Rule 18 of the Bihar CCA Rules, 2005 has been fully violated.

11. Hence, both the Original order dated 10.06.2016 contained in Memo No.643(9) dated 14.06.2016 (annexed as Annexure-10) as well as the Appellate order dated 29.12.2016 contained in Memo No. 29(9) dated 10.01.2017 (annexed as Annexure-13) are hereby set aside.

12. The respondent authorities are directed to conduct the proceeding if, permissible under law from the stage



of enquiry report but, there is exorbitant delay in conduction of the said proceeding, therefore, it is directed that the entire process including the payment of all consequential benefits must be completed within 60 days from the date of production of a copy of this order before the Disciplinary Authority. The present case is pending before this Hon’ble Court since 2017 and final order is being passed in 2025, therefore, it goes without saying that the Disciplinary Authority shall also consider the subsequent development if, taken place with regard to the services of the petitioner.

13. Accordingly, with the aforesaid direction, this writ petition is hereby allowed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	30/06/2025
Transmission Date	NA

