

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7875 of 2023

Prem Prakash Son of Sri Satyanarayan Singh Resident of Quarter NO.-NB/5,
Post Office-Sawang Colliery, Police Station-Gomia, District-Bokaro,
Jharkhand and Permanent resident of Village-Kaithir, Police Station-Chandi,
District-Nalanda, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. The principal Secretary, Water Resources Department, Government of Bihar, Patna.
5. The Engineer-in-Chief, Flood Control and Drainage, Water Resources Department, Patna.
6. The Engineer-in-Chief, Headquarter, Water Resources Department, Patna.
7. The Chief Engineer, Flood Control and Drainage, Water Resources department, Patna.
8. The Chief Engineer, Central Design, Research and Quality Control, Anisabad, Patna.
9. The Assistant Engineer, Office of the Engineer-in-Chief, Headquarter, Water Resources Department, Patna.

... .. Respondent/s

WITH

Civil Writ Jurisdiction Case No 7869 of 2023

Yogendra Kumar son of Sri Gopal Prasad, Resident of Village Kashera Toil
Road, Daudnagar, Police Station-Daudnagar, District-Aurangabad, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.



5. The Engineer-in-Chief, Flood Control and Drainage, Water Resources Department, Patna.
6. The Engineer-in-Chief, Headquarter, Water Resources Department, Patna.
7. The Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur.
8. The Chief Engineer, Central Design, Research and Quality Control, Anisabad, Patna.
9. The Assistant Engineer, Officer of the Engineer in Chief, Headquarter, Water Resources Department, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No 7875 of 2023)

For the Petitioner/s : M/s Sanjeev Kr, Prava Shankar Mishra, Advocates

For the Respondent/s : Mr.Anjani Kumar (Aag4)

(In Civil Writ Jurisdiction Case No 7869 of 2023)

For the Petitioner/s : M/s Sanjeev Kr, Prava Shankar Mishra, Advocates

For the Respondent/s : Mr.Vikash Kumar (Sc11)

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 16-06-2025

Since common issues are involved in both the writ petitions, therefore, both of them are being decided by this common order.

2 The petitioner Prem Prakash assailed the order dated 02.12.2022, as contained in Memo No 2698 whereby and where under the Disciplinary Authority imposed the punishment of dismissal from service and also assailed the order, as contained in notification bearing No 1176 dated 17.07.2023 whereby and where under the review petition preferred by him has been rejected.



3 The petitioner Yogendra Kumar of CWJC No 7869 of 2023 assailed the order, as contained in Memo No 1473 dated 21.06.2022 whereby and where under the Disciplinary Authority passed the order of dismissal from service and also assailed the order dated 05.01.2023 passed by the Appellate Authority whereby and where under the appeal preferred by him has been rejected.

4 Brief facts of the cases are that at the relevant time, the petitioners Prem Prakash and Yogendra Kumar were working on the posts of Sub Divisional Officer and Junior Engineer respectively in Flood Control Sub Division, Naruar under Flood Control Division No 2, Jhanjharpur, Madhubani, Water Resources Department, Government of Bihar. On the basis of certain allegations, two separate departmental proceedings have been initiated against both of them. ***Prapatra Ka*** was issued on them on 18.10.2019. Both the petitioners, vide their letter dated 10.12.2019, asked for certain documents which were not provided to them. The Department also sent reminder to the petitioners for submitting the explanation in spite of the fact that the documents were not provided to them. Finally, vide Resolution dated 16.10.2020, departmental proceedings have been initiated against them. The Enquiry Officer, in his first enquiry report dated 24.02.2021, arrived on the conclusion that all the charges levelled



against both the petitioners were not proved. The report submitted by the Enquiry Officer was not palatable to the authorities. The higher authorities directed the Enquiry Officer to record the statements of the witnesses and the matter was remitted back to the Enquiry Officer for a fresh enquiry. On the basis of said, the Enquiry Officer again enquired the matter and recorded the statement of one witness, namely, Rajesh Kumar and in his second enquiry report dated 17.09.2021, arrived on the conclusion that some of the charges levelled against the petitioners were proved and some were not proved. On the basis of said enquiry report, the Disciplinary Authority passed the order of dismissal, as mentioned above, against both the petitioners. The appeal as well as review, as mentioned above, preferred by the petitioners have also been rejected. Hence, these petitions have been preferred by the petitioners.

5 Learned counsel for the petitioners would submit that the matter was remitted back for a fresh enquiry to the Enquiry Officer on the basis of order passed by the concerned Minister which is bad in law as the Minister was not empowered to pass such type of order. Therefore, on this ground only, the second enquiry conducted by the Enquiry Officer and all subsequent proceedings and orders passed by the authorities are liable to be



set aside. He further submits that once the Enquiry Officer, in his first enquiry report, arrived on the conclusion that none of the charges levelled against the petitioners were proved then only on one line statement of the witness, in his second enquiry report, he wrongly arrived on the conclusion that some of the charges levelled against the petitioners were duly proved. The above conclusion recorded by the Enquiry Officer is also not acceptable. According to the learned counsel, while deciding the review as well as the appeal, the higher authorities also did not consider these aspects. Therefore, the order of dismissal passed by the Disciplinary Authority as well as the orders passed by the authority in appeal as well as review, as referred to herein above, are liable to be set aside.

6 Learned counsel for the respondent-State opposes the argument raised by the learned counsel for the petitioners and submits that as contained in Rule 22 (4) of the Rules of Executive Business, 1979 (for brevity, *the 1979 Rules*), the concerned Minister is fully empowered to take a decision for enquiry against the erring employee. Therefore, the order for fresh enquiry passed by the concerned Minister is in accordance with law. He further submits that the Enquiry Officer in the second enquiry report, on the basis of the material placed before him and on the basis of



evidence available on record, rightly arrived on the conclusion that some of the charges levelled against the petitioners were found proved. Therefore, on the basis of such enquiry report, the Disciplinary Authority rightly passed the dismissal order.

7 I have heard learned counsel for the parties and perused the documents annexed with the petition as well as the counter affidavit submitted by the respondents.

8 Undisputedly, at the time of submitting the first enquiry report dated 24.02.2021, the Enquiry Officer, without recording the statement of any of the listed witnesses, arrived on the conclusion that all the charges levelled against both the petitioners were not proved. Perusal of the record shows that after submission of such enquiry report, the concerned file went up to the concerned departmental Minister. The concerned Minister, on scrutiny, found that the Enquiry Officer has not recorded the statement of listed witnesses in the charge sheet and ordered for remitting back the matter for recording the statements of witnesses. According to the learned counsel for the petitioners, the concerned departmental Minister is not empowered to pass such type of order. However, the learned counsel for the respondents-State submits that, as contained in Rule 22 (4) of the 1979 Rules,



the concerned Minister is fully empowered to pass such type of order.

9 At this juncture, it would be appropriate to reproduce Rule 22 (2) and 22 (4) of the 1979 Rules which reads thus:

“22. (1)

(2) The following disciplinary cases concerning [Group-B] State Service Officers of the concerned departmental cadre shall be submitted to the Minister-in-charge of the department for orders through the departmental [Principal Secretary/Secretary]-

(i) Proposals to suspend officers of State Services, as mentioned above or to impose on such officers the penalty of censure, stoppage at efficiency bar, withholding of increments or promotion or reduction in rank.

(ii) Proposals to modify or expunge adverse remarks recorded in the character rolls of officers of State Services mentioned above.

... ..

[22(3).

22(4) राजपत्रित राज्य सेवाओं के बेसिक ग्रेड से ऊपर के दो ग्रेड्स में कार्यरत पदाधिकारियों का स्थानान्तरण एवं पदस्थापन, विभागीय मंत्री द्वारा किया जा सकेगा।”

10 Bare perusal of the above, it is quite clear that as contained in Rule 22 (2) of the 1979 Rules, the matter for the proposal to suspend the officers of the State service or to impose on such officers penalty of censure, stoppage at efficiency bar,



withholding of increments or promotion or reduction in rank and proposals to modify or to expunge adverse remarks recorded in the character rolls of the officers, are only submitted to the concerned Minister. There is no mention that the enquiry report, as submitted by the Enquiry Officer in the departmental proceeding is also required to be placed before the concerned Minister. Perusal of sub-rule 22 (4) of the 1979 Rules further shows that the matter of transfer and posting of the officers is required to be placed before the concerned Minister. Therefore, I do not find any substance in the arguments raised by the learned counsel for the respondent-State that the concerned Minister is fully empowered to pass such type of order, as passed in this matter.

11 So far as the second enquiry report is concerned, perusal of the enquiry report clearly shows that the Enquiry Officer recorded the statement of one listed witness Rajesh Kumar. Only one line statement has been made by him whereby he stated that he made his report on the basis of spot inspection only. What spot inspection was done by him and what irregularity was found by him is not stated by him in his statement recorded before the Enquiry Officer. The enquiry report further shows that opportunity to cross examine this witness has also not been provided to the petitioner herein. It appears that the Enquiry



Officer only, on the basis of conjectures and surmises, arrived on the conclusion that some of the charges levelled against the petitioners herein were found proved. Virtually, it is a case of no evidence. Earlier, the same Enquiry Officer, on the basis of documents available to him, arrived on the conclusion that all the charges levelled against both the petitioners are not proved. Subsequently, only on the basis of one line statement of the witness, he wrongly arrived on the conclusion that some of the charges levelled against the petitioners were found proved. The authorities, while deciding the appeal and review preferred by the petitioners have also not considered these aspects and passed their orders.

12 Looking to the facts and circumstances, as discussed above, I am of the view that the orders impugned are liable to be set aside.

13 Accordingly, both the petitions are allowed and the order dated 02.12.2022 passed by the Disciplinary Authority and also the order dated 17.07.2023 passed by the Reviewing Authority in CWJC No 7875 of 2023 and also the order dated 21.06.2022 passed by the Disciplinary Authority as also the order dated 05.01.2023 passed by the Appellate Authority are set aside.



14 The respondents are directed to reinstate the services of the petitioners with all consequential benefits within a period of two months from the date of receipt of a copy of this order.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.06.2025
Transmission Date	NA

