

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9220 of 2018

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Smt. Babita Roy wife of Sri Vijay Kumar, resident of Pratichi, West of B/106,
Kankerbagh Housing Colony, P.S. Kankerbagh, District Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Social Welfare, Government of Bihar, Patna.
2. The Joint Secretary, Govt. of Bihar, Patna.
3. The Special Secretary, Govt. of Bihar, Patna.
4. The Joint Secretary, Department of Social Welfare, Govt. of Bihar, Patna.
5. The Divisional Commissioner, Patna Division, Patna.
6. The District Magistrate, Patna.
7. The District Programme Officer, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Mavia Nazir, Advocate Mr. Rajesh Ranjan, Advocate
For the Respondent/s	:	Mr. Md. Raisul Haque (SC-10) Mr. Binay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 20-02-2025 Heard Learned Counsel for the petitioner and Learned
Counsel for the State.

2. The present writ petition has been filed for quashing of the Memo No.3372 dated 26.07.2017 (annexed as Annexure-13) whereby and whereunder, penalty of stoppage of two increments without cumulative effect was imposed upon the petitioner. Further prayer has also been made for directing the respondent authority to grant all consequential benefits to the petitioner.



3. Learned Counsel for the petitioner submits that *vide* Annexure-4 contained in Memo No.2845 dated 03.07.2015, petitioner was exonerated from the charges. Counsel submits that the said Memo No.2845 dated 03.07.2015 which has been issued under signature of Special Secretary, Government of Bihar duly approved by the Governor has been reviewed *vide* Memo No. 3372 dated 26.07.2017 by the order of Joint Secretary, Government of Bihar. Counsel submits that under Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'CCA Rules, 2005'), once any delinquent has been discharged from *Prapatra-K*, then in that case, the only remedy available to the Government or its higher officials is to file revision under Rule 28 of the CCA Rules, 2005 and then either confirm, modify or set aside the order passed by the Disciplinary Authority. But, here in the present case, the Special Secretary, Government of Bihar has exonerated the petitioner from the charges and the officer below the rank of Special Secretary i.e. Joint Secretary has revised the order passed by his higher authority.

4. Learned Counsel for the State submits that power of revision is vested under Rule 28 of the CCA Rules, 2005 and the order passed by the Joint Secretary has been made only after



due deliberation in accordance with law.

5. After hearing the parties, it transpires to this Court that the final order of exoneration from the charges has been passed by the Special Secretary of the Government which was duly approved by the Governor, Bihar. It also transpires that the revised order has been passed by the Joint Secretary and the said order has been passed in gross violation of Rule 28 of the CCA Rules, 2005. A junior officer cannot revise the order passed by his higher rank officer. Hence, on this ground alone, this Court hereby quash the Memo No.3372 dated 26.07.2017 (annexed as Annexure-13).

6. The concerned Respondent authorities are directed to grant all consequential benefits to the petitioner within 3 months from the date of production of this order.

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

(Dr. Anshuman, J)

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