

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17213 of 2021

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1. Bindeshwari Yadav Son of Late Ram Khelawan, resident of Village-Lakshminiya, P.O.- Tarwara P.S.- Jamalpur District - Darbhanga. At present Kachaya Sewak Medicine department D.M.C.H. Darbhanga.
 2. Amlesh Prasad Son of Late Yogendra Prasad, resident of Village and P.O.- Tarwara, P.S. Jamalpur, District- Darbhanga.
 3. Shambhu Sah, Son of Late Mangal Sah, resident of Village - Dhoi ghat Nadikat Diwari and P.O.- Kawariya P.S.- Sadar Darbhanga, District- Darbhanga. At present ward no.- 36 DMCH Campus P.O.- DMC P.S.- Laheriasarai, District - Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Director in Chief, Health Department, Government of Bihar, Patna.
3. The Superintendent, Darbhanga Medical College and Hospital , Darbhanga.
4. The Head of Department, Medicine, Darbhanga Medical College and Hospital, Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Md. Shahnawaz Ali, Advocate
For the Respondent/s	:	Mr. Mujtabaul Haque, GP- 12
		Mr. Vasant Vikas, AC to GP- 12

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 24-12-2025

Heard learned counsel for the parties.

2. The petitioner by filing the instant writ application has prayed for quashing the order of punishment contained in Memo no. 2088 dated 23.5.2017 passed under the signature of the Superintendent, Darbhanga Medical College and Hospital, Laheriasarai (in short 'DMCH') whereby the respondents inflicted the petitioners with the punishment of



withholding three increments of their salary with non-cumulative effect, censure and that the petitioners would not be entitled for any backwages or any other allowance except the subsistence allowance for the period of suspension.

3. The case of the petitioners in brief is that while they were posted as Class-IV employees and were working on the post of *Kaksha Sevak* in the DMCH, they were placed under suspension on 25.9.2015. The petitioners were served with separate identical memo of charges contained in form 'ka', one of which has been brought on record as Annexure-2 to the writ application.

4. The petitioners filed their replies before the conducting officer who after concluding the inquiry submitted his inquiry report dated 26.2.2016.

5. The respondents thereafter came out with the order of punishment contained in Memo no. 2088 dated 23.5.2017 under the signature of the Superintendent, DMCH inflicting the punishment on the petitioners, as stated above.

6. It is against this order of punishment dated 23.5.2017 that the instant application has been filed by the petitioners.

7. It is submitted by learned counsel appearing for



the petitioners that the departmental proceeding was conducted in absolute violation of the relevant rules and the law laid down by the Hon'ble Supreme Court. The inquiry was perfunctory in nature. No witness was examined in course of the inquiry nor any document exhibited or marked exhibit or proved. It is a case of no evidence. It is further submitted that though it has not been stated in so many terms, however on perusal of the order of punishment dated 23.5.2017, there is no mention of the copy of the inquiry report having been supplied to the petitioners.

8. In view of the facts and circumstances, it is submitted that the order of punishment is not sustainable and the same be set aside and all consequential benefits be paid to the petitioner.

9. The application is opposed by learned counsel appearing for the respondents. Referring to the counter affidavit filed, it is submitted that the petitioners who were working as Class-IV employees in the DMCH were assigned the work to change the oxygen gas cylinder of the patients who were admitted in the intensive care unit (ICU). As a result of the negligence of the petitioners and lack of oxygen supply, three of the patients died on 28.9.2015. While the petitioner no. 2 was on duty on the relevant date from 10 pm on 27.9.2015 till 8 am on



the next day, the petitioner nos. 1 and 3 were assigned duties on 25.9.2015 from 8 am to 2 pm. It is further submitted that the proceedings was started against all three petitioners by placing them under suspension and issuing them with the memo of charges in *prapatra* 'ka'. The petitioners were given an opportunity to reply to the show cause notice. In the inquiry conducted, the charges were found to be proved. There is no procedural irregularity committed in the proceedings and the petitioners have not made out any case for interference in the order of punishment.

10. Heard learned counsel for the petitioners, learned counsel for the respondents and perused the material on record.

11. The relevant facts in brief are that the three petitioners who were working in the capacity of *Kaksha Sevak* in the DMCH at the relevant time were placed under suspension by order dated 25.9.2015 and were proceeded against in a departmental proceeding by issuance of charges in *prapatra* 'ka', one of the memo of charges having been brought on record as Annexure- 2 to the writ application.

12. The charge against the petitioners was to the effect that inspite of the petitioners having being assigned duty



in the medicine ICU ward, the petitioners were not present which resulted in non-supply of oxygen to the patients resulting in their death. As such, the same reflected the negligent attitude of the petitioners for which they were being proceeded against under Rule 14 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005. The charge being that on 25.9.2015, the petitioners had not come on time for their duty as a result of which there was non-supply of oxygen resulting in death of the patient.

13. From perusal of the inquiry report, it transpires that the proceedings/inquiry with respect to all the three petitioners took place in an analogous manner. Not a single witness was examined on behalf of the management to prove the charges levelled in the memo of charge nor any document were exhibited or proved in course of inquiry.

14. The Hon'ble Supreme Court in the case of ***Roop Singh Negi vs. Punjab National Bank & Ors.; (2009) 2 SCC 570*** has held:

“14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has



a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence.”

15. A Division Bench of this Court in the case of Devendra Prasad vs. The State of Bihar and Ors. (judgment dated 19.10.2023 passed in L.P.A. no. 1302 of 2017), following Roop Singh Negi (supra) held as follows:

“7. As has been held in Roop Singh Negi v. Punjab National Bank and others; (2009) 2 SCC 570, the documents produced in a departmental inquiry has to be proved by examining witnesses. Even an F.I.R. was held to be not evidence by itself without actual proof of facts stated therein. The Hon’ble Supreme Court had also held that even an admission or confession to the police itself is not sufficient to find the



delinquent employee guilty in a departmental proceeding if no evidence is brought on record to prove the offence or misconduct alleged. Departmental inquiry was held to be a quasi-judicial proceeding and the Inquiry Officer functions in the status of a quasi-judicial authority. Not only should evidence be led in a departmental inquiry, the conclusions arrived at should be based on evidence which brings forth a probability that the delinquent has committed the misconduct alleged and charged against him. No Inquiry Report based on conjectures and surmises can be sustained and even in a departmental inquiry, the standard of proof is not a mere suspicion. However high the degree of suspicion is, it cannot be a substitute for legal proof.”

16. Coming to the facts of the instant case, specially the contents of the inquiry report submitted by the Conducting Officer, in the absence of any single witness having been examined on behalf of the management as also no single document having been proved or marked exhibit, it appears to the Court that even the respondents were not interested in carrying out any proceedings for the reason that the inquiry as also the entire proceeding could not have been carried out in a



more perfunctory manner.

17. In view of the facts and circumstances of the case, the order of punishment passed against the petitioners contained in Memo no. 2088 dated 23.5.2017 issued under the signature of the Superintendent, Darbhanga Medical College and Hospital, Laheriasarai as contained in Annexure-4 to the writ application is not sustainable and is hereby set aside.

18. The writ application is allowed with all consequential benefits including the arrears of salary etc for the period that the petitioners were kept under suspension which shall be paid by the respondents to the petitioners within a period of three months from the date of receipt/production of a copy of this order.

(Partha Sarthy, J)

saauravkrsinha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.12.2025
Transmission Date	NA

