

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11197 of 2024

Kunwar Kharwar Son of late Bhagirathi Kharwar, resident of Mohalla- Tej Pratap Nagar (Beur), P.S.- Beur, District- Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Bihar, Patna.
2. Principal Secretary, General Administration Department, Bihar, Patna.
3. Under Secretary, General Administration Department, Bihar, Patna.
4. Bihar Staff Selection Commission, Patna, through its Secretary.
5. Secretary, Bihar Staff Selection Commission, Patna.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Niranjana Kumar, Advocate Mr. Sanjay Kumar, Advocate
For the State	:	Dr. Md. Rasul Haque, S.C.-10
For the Commission	:	Mr. Satyabir Bharti, Sr. Advocate Mr. Gyan Shankar, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT
Date : 23-09-2025

This writ petition has been filed for the following

reliefs:-

- “i. To issue appropriate direction, order or writ in the nature of Certiorari quashing the order issued by the Under Secretary, General Administration Department, Bihar, Patna as contained in memo no. 488 dated 08.01.2024 by which the petitioner has illegally been awarded punishment of censure (for the year 2022-23) and stoppage on one increment with non-cumulative effect.*
- ii. To issue appropriate direction, order or writ in the nature of Certiorari quashing*



the order issued by the Under Secretary, General Administration Department, Bihar, Patna as contained in memo no. 4910 dated 20.03.2024 by which review application of the petitioner against the aforesaid order of punishment has wrongly been rejected.

iii. To issue appropriate direction, order or writ in the nature of Mandamus commanding the respondents to grant consequential benefits.”

2. The petitioner was appointed as Assistant in the Secretariat and thereafter he was promoted to the post of Section Officer and subsequently, he was transferred to Bihar Staff Selection Commission and since then he has been performing his duties in the said Commission.

3. The background of this case is that one Rajesh Kumar had filed C.W.J.C. No.3937 of 2022, which was disposed of vide order dated 28.03.2022 with a direction to the competent authority to finalize the process of selection and appointment to the post of driver. Thereafter, the petitioner therein, filed a representation before the Bihar Staff Selection Commission. Since no action was taken, a contempt application viz. M.J.C. No.2415 of 2022 was filed for violation of the order of this Court. In the aforesaid proceeding, the personal appearance of the Secretary, Staff Selection Commission, was



ordered for non-compliance of earlier order dated 28.03.2022. Finally, the said contempt proceeding was dropped with the liberty to the petitioner therein to assail his non-selection to the post of driver.

4. In this context, the Secretary, Bihar Staff Selection Commission sought for an explanation from the present petitioner, who was working there as Section Officer, vide letter dated 05.05.2023 alleging gross negligence in duty and indiscipline, especially in not putting the representation received from aforesaid Rajesh Kumar before the higher authorities for taking appropriate steps. The main allegation against him is that he neither issued any instructions to his subordinates nor informed his higher authorities when the said representation, so received, was not put up by the dealing assistant.

5. Thereafter, the petitioner vide letter dated 12.05.2023 submitted his response to the aforesaid show-cause stating therein that the petitioner had duly marked the representation to one Hemraj Kaji, Assistant, and had further on multiple occasions verbally and in writing reminded him to dispose of the pending letters/ file. The petitioner also duly communicated all these to his higher authorities. Being



dissatisfied with the explanation submitted by the petitioner, the Secretary, Bihar Staff Selection Commission, directed for initiation of a departmental proceeding against the petitioner. In the departmental proceeding, the petitioner was directed to submit his defence vide memorandum dated 20.09.2023. Accordingly, on 26.09.2023, the petitioner submitted his response including all documentary evidences.

6. The disciplinary authority vide order dated 08.01.2024 imposed the punishment of censure for the year 2022-23 and stoppage of one increment with non-cumulative effect. Thereafter, the petitioner preferred a review which was rejected vide order dated 20.03.2024.

7. At the very outset, learned counsel for the petitioner submits that the impugned order, by which the punishment of censure and stoppage of one increment with non-cumulative effect has been awarded to the petitioner is a non-speaking and un-reasoned order and therefore, it is un-teanable in the eye of law.

8. In support of this submission, the learned counsel for the petitioner has relied upon judgments of the Hon'ble Supreme Court in the case of ***Kranti Associates Private Limited & Anr. Vs. Masood Ahmed Khan & Ors.*** reported as



(2010) 9 SCC 496 and Delhi Transport Corporation vs. Ashok Kumar Sharma reported as ***2024 SCC OnLine SC 1871***.

9. It has been submitted by learned counsel for the petitioner that the charge under “*Praptra-K*” has not been framed by the disciplinary authority i.e. the Principal Secretary, General Administration Department rather by the Bihar Staff Selection Commission itself, which is impermissible. Even otherwise, the charges so framed are not specific and vague. Pertinently, from the perusal of the memorandum issued to the petitioner it appears that the departmental proceeding was initiated simultaneously under two provisions i.e. Rule 17 and 19 of the Bihar CCA Rules, 2005.

10. Lastly, it has been submitted by learned counsel for the petitioner that the defence of the petitioner has not been duly considered and only bald statements have been given in light of the opinion of the Bihar Staff Selection Commission and no reason has been assigned for awarding punishment to the petitioner and not even the evidences are discussed in the impugned order.

11. In this case, a counter affidavit has been filed by the State wherein it has been stated that the petitioner deliberately did not put up the concerned file which resulted in



filing of the contempt petition before this Court and therefore, the petitioner has committed gross negligence / carelessness in discharging his duty as Section Officer. In the counter affidavit, the State has supported the impugned orders passed by the respondent authorities.

12. I have heard and considered the submissions of the parties and have gone through the records of the case.

13. The Hon'ble Supreme Court in the case of ***Kranti Associates Private Limited*** (supra) has held as under:-

“47. Summarizing the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.



(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial



authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or “rubber-stamp reasons” is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37]

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, “adequate



and intelligent reasons must be given for judicial decisions”.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of “due process”.

14. Subsequently, the Hon’ble Supreme Court in the case of ***Delhi Transport Corporation*** (supra) has held as under:-

*“17. Furthermore, the agenda item which was circulated by the CMD for consideration of the Board (reproduced supra) clearly indicates that the Board was to take a decision in the matter while considering the facts of the case and the reply submitted by the charged officer in response to the show cause notice dated 15th April, 2009. However, other than giving a blind approval to the show cause notice and the agenda item albeit referring to the reply of the charged officer, the Board's Resolution dated 29th April, 2009 does not reflect any independent or objective application of mind by the members of the Board to the enquiry report either individually or collectively. In this regard, reference may be made to the judgment rendered by this Court in the case of *A.L. Kalra v. Project & Equipment Corporation of India Ltd.*¹ the relevant paragraph thereof is reproduced hereinbelow for the sake of ready reference:—*



“29. The situation is further compounded by the fact that the disciplinary authority which is none other than Committee of Management of the Corporation while accepting the report of the inquiry officer which itself was defective did not assign any reasons for accepting the report of the inquiry officer. After reproducing the findings of the inquiry officer, it is stated that the Committee of Management agrees with the same. It is even difficult to make out how the Committee of Management agreed with the observations of the inquiry officer because at one stage while recapitulating the evidence the inquiry officer unmistakably observed that appellant was subjected to double punishment and at other place, it was observed that granting extension of time and acceptance of documents and balance advance would tantamount to extending the time which would make the affair look wholly innocuous. This shows utter non-application of mind of the Disciplinary Authority and the order is vitiated.”

15. It is a trite law that furnishing of clear, cogent and succinct reasons in support of the findings arrived at by the authority acting in quasi judicial capacity is an



indispensable component of a decision making process. Recording of reasons is imperative since it not only illustrates the application of mind but also helps judicial forms to properly scrutinize such orders. Non recording of reasons illustrates arbitrariness.

16. In the present case, from the perusal of the impugned order dated 08.01.2024, it is evident that an opinion was sought from the Bihar State Selection Commission regarding the petitioner. In response to the aforesaid, an opinion was sent by the Commission wherein it has been stated that though the petitioner has delayed in forwarding the representation to the concerned authority but now his work has been found to be satisfactory and this fact may be considered by the authority. However, while imposing the punishment upon the petitioner the authority has neither considered the aforesaid opinion of the Commission nor any reason has been assigned for rejecting or disagreeing with the aforesaid opinion, which was in favour of the petitioner. Therefore, it is apparent that the respondent authority has only reiterated the facts and allegations of the case and has failed to record specific reasons to arrive at a conclusion, more particularly, for its rejection / disagreement with the opinion of the Commission, which is absent in the



impugned order. It is settled position of law that when a quasi - judicial body exercises its power/discretion to adjudicate the matter, he must give reasons so that the person concerned or higher authority could know the mind of the authority, who passes the order. Giving reasons for arriving at a finding is a part of the natural justice.

17. Considering the aforesaid facts and also the law laid down by the Hon’ble Supreme Court, as indicated above, the impugned orders dated 08.01.2024 by which the punishment of censor and stoppage of one increment with non-cumulative effect was imposed upon the petitioner and the order dated 20.03.2024 by which the review application has been rejected are quashed. The petitioner shall be entitled to all consequential benefits.

18. Accordingly, this writ application stands allowed.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	26.09.2025
Transmission Date	

