

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.486 of 2022

In
Civil Writ Jurisdiction Case No.12752 of 2021

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1. The State of Bihar through Principal Secretary, Health Department, Government of Bihar, Patna.
 2. The Director, Health Department, Government of Bihar, Patna.
 3. The Additional Director Cum Conducting Officer, Health Department, Government of Bihar, Patna.
 4. The Under Secretary, Health Department, Government of Bihar, Patna.
 5. The District Magistrate, Katihar, District-Katihar.
 6. The Civil Surgeon, Katihar, District-Katihar.

... .. Appellant/s

Versus

Dr. Manindra Kumar Manish, S/o Late Sidheshwar Prasad Mandal, Resident of Binodpur, P.S.-Katihar Sadar, District-Katihar, Pin-854105.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Suryakant Kumar (A.C. to G.A.8)

For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 07-10-2025

The present intra-court appeal has been filed by the appellants against the judgment dated 20.12.2021, passed by the learned Single Judge in CWJC No. 12752 of 2021, whereby the order of penalty issued by the Health Department dated 08.06.2021 has been set aside, and the matter was remanded to the disciplinary authority to commence and complete the enquiry from the defective stage.



2. The facts in brief are that the petitioner (respondent herein) was a Medical Officer under the Bihar State Health Service and was posted as Chief Medical Officer (Child Specialist) under SNCU, Sadar Hospital, Katihar. On basis of a complaint, an inquiry committee was constituted by the District Magistrate, Katihar on 01.08.2012. On basis of the report of Inquiry Committee, Health Department, State of Bihar initiated a departmental proceeding against the respondent. On 08.06.2021, an order was passed by the Health Department, State of Bihar, and the petitioner was given the punishment of compulsory retirement at a lower pay scale. The petitioner was due to superannuate on 30.09.2021.

3. The contention of the respondent herein in the Writ Petition was that on the basis of inquiry report, a departmental proceeding was initiated by the Health Department against him, being one of the members of the Purchase Committee. The respondent was called upon by the appellants herein to explain the charges levelled against him on 28.12.2016, but he did not appear. However, he was given another opportunity by the appellants, and subsequently, he appeared on 12.01.2017, and submitted his written response explaining his inability to oppose the charges framed against him and requested the appellants to



supply all evidence/documents relied upon by the Conducting Officer to prove the culpability of the respondent. Thereafter, a second show cause was issued to the respondent, in response to which he again raised objections with regard to non-supply of material evidence necessary to refute the allegations of fraud/irregularities in the tender documents, comparative rate list and alleged overwriting or cutting in the bid documents. The competent authority, finding that the respondent had not submitted his response to the second show cause, passed an order of compulsory retirement on a lower-pay scale, which was duly approved by the Bihar Public Service Commission and in the Cabinet Meeting.

4. Being aggrieved with the order of the Departmental Authority dated 05.04.2018 and the order of compulsory retirement dated 08.06.2021, the respondent preferred CWJC No. 12752 of 2021 before the learned Single Judge.

5. The learned Single Judge, upon consideration of the materials on record, found that the respondent (petitioner therein) had contended that there had been a non-compliance of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for brevity 'CCA Rules'), regarding the supply of material evidence. The learned Single Judge found



that such contention of the respondent was not controverted by the appellants (respondents therein). Consequently, the order of compulsory retirement dated 08.06.2021 was set aside and the writ petition was allowed in part, and the matter was remanded back to the disciplinary authority to complete the enquiry within a period of three months of the impugned judgment.

6. Aggrieved by the aforesaid judgment, the present appeal has been preferred by the appellants.

7. Learned counsel for the appellants submitted that the impugned judgment has been passed in a casual manner, merely relying on the statements made in the writ petition that there is non-compliance of the CCA Rules. Learned counsel further contended that the impugned punishment order has been passed as per the provision contained in the CCA Rules when the respondent failed to submit second show cause reply.

8. From the perusal of records of the case, we find that the respondent had contended in the writ petition before the learned Single Judge that he had not been provided with the material evidences and documents even after approaching the concerned authorities. The relevant paragraph of the writ petition is reproduced as under:

“6. That since the Petitioner did not appear on the 28.12.2016, the Respondent No.3 vide



another Letter No. 170 dated 29.12.2016 gave an additional opportunity to the Petitioner to appear before him and adduce evidence and defend his cause in the Departmental Proceedings. In compliance of the above mentioned letter, the Petitioner appeared before the Respondent No.3 on 12.01.2017 with a written response explaining his inability to oppose the charges framed against him, in absence of any bid document being available with him or any other document with respect to purchases made and that the evidence relied on by the conducting officer while initiating a Departmental Proceeding was not provided to him. Despite all evidence and documents being kept from the Petitioner, the Petitioner to the best of his ability and knowledge gave a detailed written explanation with respect to each charge framed against him and prayed to release him of all charges.

A copy of the written representation dated 12.01.2017 is annexed herewith and marked as Annexure-2 to this petition.

7. That the Petitioner to make good his cause and to buttress his submission in the Disciplinary Proceedings requested the Respondent No.3 to provide all evidence which is relied on by the conducting officer to prove the culpability of the Petitioner. However, despite repeated request by the Petitioner 20.03.2017, 26.05.2017 and 30.06.2017 to show all the



evidences and specifically the signed technical and financial bid, the same was not made available to the Petitioner. That the Respondent No.3 on 30.06.2017 allowed the Petitioner access to some evidence however material evidence like the comparative rate list, signed copies of technical and financial bid were still not made available to the Petitioner.

A copy of the representation dated 20.03.2017, 26.05.2017 and 30.06.2017 is attached herewith and marked as Annexure-3 (Series) to this petition.”

9. Further, Rule 17(4) of the CCA Rules clearly states that the government servant has to be provided with all documents and witnesses by which each article of charge is proposed to be sustained. The relevant part of Rule 17 of CCA Rules is reproduced as under:

“(4) The disciplinary authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge, such statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Government Servant to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.”

10. Upon further perusal of records, it is evident that



the above mentioned paragraphs of Writ Petition (Paragraph 6 and 7 of the Writ Petition) were not replied in the counter affidavit by the appellants, and as such, it can be correctly proceeded with that there was a non-compliance of CCA Rules.

11. Therefore, we are of the view that the learned Single Judge had rightly set aside the order dated 08.06.2021 and remanded the matter to the disciplinary authority to commence and complete the enquiry from the defective stage.

12. Accordingly, we do not find any reason to interfere with the order of the learned Single Judge, and the present appeal stands dismissed.

13. Interlocutory application(s), if any, shall also stand disposed of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.10.2025
Transmission Date	

