# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Writ Jurisdiction Case No 15840 of 2022**

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Ranjeet Kumar Rajak Son of Late Mahendra Prasad Rajak, Resident of Village - Hanswar, P.S. Manihari, District- Katihar.

... ... Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary, Department of Home, (Police), Government of Bihar, Patna.
3. The Deputy Secretary, Department of Home (Police), Government of Bihar, Patna.

... ... Respondent/s

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**Appearance :**

For the Petitioner/s : M/s Kr Kaushik, Hemant Raj, Namrata Dubey, Advocates

For the Respondent/s : Mr.Manish Kumar ( Gp 4 )

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**CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL**

**<u>ORAL JUDGMENT</u>**

**Date : 11-08-2025**

This petition has been preferred by the petitioner seeking the following reliefs:

> ***"(i) For issuance of an appropriate writ to quash the resolution of the Home Department (Police) Government of Bihar contained in number 9173 dated 08.09.2022 by which the Government has decided to initiate the departmental proceeding against the petitioner under Rule 17 (5) (C) of Bihar CCA Rules 2005.***
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> ***(ii) For issuance of an appropriate writ for commanding and directing the respondents to not initiate/conduct a departmental proceeding against the petitioner till the disposal of the criminal proceeding.***

***(iii) For issuance of an appropriate writ for commanding and directing the respondents not to take any final decision in the departmental proceeding till the disposal of the criminal proceeding.***

***(iv) For any other relief/reliefs, order/orders, direction/directions may be issued in favour of the petitioner in accordance with law for which he is entitled to in the ends of justice, equity and fair play."***

**2** Facts of the case are that on 08.01.2011, the petitioner was appointed as Assistant Manager JMG-1 in the Central Bank of India and joined his services there on 18.01.2011. One FIR has been registered against him being EOU PS Case No 23 of 2012 on 20.10.2012 for the offence punishable under Sections 420, 468, 473, 120B of the IPC. A disciplinary proceeding was initiated against the petitioner and charge sheet was served by the Central Bank of India (Annexure 23A) on 09.02.2015. Vide Annexure 24 dated 22.04.2015, third charge was added to the charge sheet and the Enquiry Officer was directed to enquire the third charge also. The third charge related to the FIR bearing EOU PS Case No 23 of 2012 registered by the EOU on 20.10.2012 as well as on the ground that the petitioner had suppressed the aforesaid fact before his employer, i e, the Central Bank of India. Meanwhile, the petitioner, after getting NOC, participated in the recruitment process conducted by the BPSC for the 53rd to 55th combined competitive examination for appointment to the gazetted service. Petitioner was declared finally successful. At the time of document verification, petitioner submitted his affidavit dated 30.06.2014 (Annexure 1) wherein it has been declared by him that there is one criminal case pending against him bearing EOU PS Case No 23 of 2012 in which charge sheet has not been submitted against him. Finally, the appointment letter (Annexure 4) has been issued to the petitioner on 05.02.2015 and he joined his services after getting no objection from the Bank, i e, his previous employer. The Bank had accepted the resignation vide order dated 18.09.2015 with effect from 09.02.2015 (Annexure 26C). The Enquiry Officer of the Bank submitted his enquiry report on 28.07.2015 (Annexure 24B). On the basis of said, the Disciplinary Authority of the Bank passed the order of punishment imposing censure against the petitioner vide its order dated 28.07.2015 (Annexure 25B). On 11.05.2016, Prapatra Ka (Anexure 16) was issued to the petitioner for the charges in relation to EOU PS Case No 23 of 2012. The petitioner denied the allegation and submitted his reply to the show cause. However, on 08.09.2022, the Department has decided to initiate a departmental proceeding against the petitioner (Annexure 15) for the allegations levelled against him in EOU PS Case No 23 of 2012 dated 20.10.2012. Hence, this petition.

**3** It is submitted by the learned counsel for the petitioner that criminal proceeding has been initiated in the year, 2012, i e, prior to the appointment of the petitioner in the Department and, hence, the appointing authority is not entitled to initiate departmental proceeding against the petitioner under the CCA Rules as the petitioner was not the Government servant at the time of alleged misconduct. It is further submitted that before joining in the services, the petitioner had informed about pendency of the said case at the time of document verification. The Government of Bihar, after getting a report from the EOU about pendency of the case, had issued appointment letter to the petitioner and thereby had condoned the alleged misconduct of the petitioner. Thus, they cannot be allowed to initiate the disciplinary proceeding. If the criminal proceedings result into conviction of the petitioner then the present employer is entitled to take necessary action against the petitioner in exercise of powers under Article 311 of the Constitution of India. However, before the disposal of the criminal case, no disciplinary action can be taken in relation to the conduct prior to the appointment of the petitioner which was duly disclosed by him. It is further submitted that once the Central

Bank of India inflicted the penalty for his implication in the FIR, for the same charges, he cannot be punished again by the present employer. It is also submitted that protection of Double-Jeopardy is applicable even to disciplinary action. Since the petitioner has faced the disciplinary proceeding for the aforesaid charges, he cannot be directed to face disciplinary proceeding on the same charges.

**4** Learned counsel for the respondents opposes the arguments raised by the learned counsel for the petitioner.

**5** I have heard learned for both the parties, perused the documents as well as the counter affidavit and the supplementary affidavit.

**6** Undisputedly the appointment letter was issued in favour of the petitioner to the post of Dy SP on 05.02.2015 and he joined his services on 10.02.2015. There is also no dispute on the point that EOU PS Case No 23 of 2012 dated 20.10.2012 has been registered against the petitioner for the offence punishable under Sections 420, 468, 473, 120B of the IPC. At that time, the petitioner was the employee of the Central Bank of India and working as Assistant Manager JMG-1.

**7** Perusal of the charge sheet served by the Central Bank of India to the petitioner (Annexure 24) shows that third charge was added to the charge sheet and the Enquiry Officer was directed to enquire to the third charge also. The third charge related to the FIR bearing EOU PS Case No 23 of 2012 dated 20.10.2012 registered against the petitioner as well as on the ground that the petitioner has suppressed the aforesaid fact before his employer, i e, the Central Bank of India. Perusal of the punishment order (Annexure 25B) further shows that in the enquiry, Charge No 3 has been proved and the Disciplinary Authority, on the basis of enquiry report, passed the order of punishment, i e, censure against the petitioner. Hence, it is clear that while the petitioner was employee of the Central Bank of India, at that time itself, the Central Bank of India initiated the departmental enquiry against the petitioner related to the FIR bearing EOU PS Case No 23 of 2012 dated 20.10.2012 and vide order dated 28.07.2015, he has been punished.

**8** Perusal of Annexure 1 further shows that at the time of document verification, the petitioner had declared that there is one criminal case pending against him bearing EOU PS Case No 23 of 2012. On the basis of said information, the Home Department obtained the report from the EOU which was submitted by the Department on 18.07.2014. Annexure 2 further shows that petitioner filed a representation before the Home Secretary requesting him to allow to join on the post of Dy SP. Thereafter, on 05.02.2015 (Annexure 4), appointment letter was issued in favour of the petitioner. Thus, it is quite clear that the respondents, after getting a report from the EOU about the pendency of the case, had issued appointment letter to the petitioner and thereby they had condoned the alleged misconduct of the petitioner which has been done by him in the year, 2012, i e, before his joining with the Respondent-Department. It is not the case of concealment of any material fact by the petitioner. He fairly, before his joining, informed about the pendency of the criminal case and on being satisfied after obtaining the report from the EOU, the appointment letter has been issued in favour of the petitioner.

**9** Undisputedly, the petitioner joined his service on 10.02.2015. The alleged misconduct was done by him on 20.10.2012. The said wrong or misconduct done by the petitioner was not after his joining with the respondents. Therefore, the respondents are not entitled to initiate any departmental proceedings for the misconduct done by the petitioner prior to his joining with the respondents.

**10** Apart from that, bare perusal of the charge sheet issued by the respondent-Department and the charge sheet issued by the Central Bank of India, it also appears that Charge No 3, which has been enquired by the Central Bank of India, is identical to the charges framed by the respondent-Department against the petitioner. Once, the petitioner has already faced the departmental enquiry for the said charges before his ex employer, i e, the Central Bank of India and has already been punished by the then employer, now he cannot be again punished by the respondents for the same charges for which he has already been punished. There is no dispute on the point also that the protection of Double-Jeopardy is also applicable even to the disciplinary proceedings.

**11** Dealing with the issue, the Division Bench of this Court in the case of ***Kameshwar Singh -Versus- Bihar State Road Transport Corporation & Others, (1995) 2 BLJR 1204*** observed and held in paragraph 19 as follows:

> ***"19. Reverting to the last point about the doctrine of Double-Jeopardy. The proceedings were initiated for the second time for the period for which misconduct has earlier been proved, and for the same charges or misconduct. The petitioner/appellant was re-employed after first misconduct. In this way earlier misconduct was condoned. Initiation of proceedings for the second time in respect for same period and charges or misconduct was barred. This was now a fundamental right that no body would be punished twice for the same charges or misconduct. It is the Doctrine of Double-Jeopardy as envisaged under Article 20 (2) of the Constitution of India. The Respondents were, therefore, not justified in initiating the proceedings for the second time for the similar period and for the same misconduct.***

***Further the punishment was not proportionate to the misconduct if any."***

**12** Taking into consideration the above, it is clear that once the petitioner has faced disciplinary proceeding for the same charges, he cannot be directed to face another disciplinary proceedings for the same charges.

**13** For the reasons, as discussed above, I am of the view that to continue with the departmental proceeding against the petitioner is an abuse of the process of Court.

**14** Thus, the petition is allowed.

**15** The Resolution of the Home Department (Police), Government of Bihar contained in Circular No 9173 dated 08.09.2022 by which the Government has decided to initiate the departmental proceeding against the petitioner under Rule 17 (5) (c) of the Bihar CCA Rules is quashed.

**(Arvind Singh Chandel, J)**

***<u>M.E.H.</u>*/-**

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| **AFR/NAFR** | NAFR |
| **CAV DATE** | NA |
| **Uploading Date** | 13.08.2025 |
| **Transmission Date** | NA |