

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1000 of 2024
In
Civil Writ Jurisdiction Case No.10533 of 2018

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Md Kabir Son of Md. Ayub, resident of village Barail, P.S. Kamtaul, District Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Bihar, Patna.
2. The Principal Secretary, Rural Development Department, Government of Bihar, Patna.
3. The Divisional Commissioner, Magadh Division, Gaya Cum Enquiry Officer.
4. The Deputy Development Commissioner Gaya Cum Presenting Officer.
5. The District Magistrate, Gaya.
6. The Additional Secretary, General Administration Department, Bihar, Patna.
7. The Joint Secretary, General Administration Department, Bihar, Patna.
8. The Deputy Secretary, General Administration Department, Bihar, Patna.
9. The Secretary, Bihar Public Service Commission, Patna.
10. The Accountant General (A and E) Bihar.

... .. Respondent/s

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with
Letters Patent Appeal No. 1014 of 2024
In
Civil Writ Jurisdiction Case No.10533 of 2018

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1. The State of Bihar through the Principal Secretary, General Administration Department, Bihar, Patna.
2. The Principal Secretary, Rural Development Department, Government of Bihar, Patna.
3. The Divisional Commissioner, Magadh Division, Gaya-cum- Enquiry Officer.
4. The Deputy Development Commissioner, Gaya-cum- Presenting Officer.
5. The District Magistrate, Gaya.
6. The Additional Secretary, General Administration Department, Bihar, Patna.
7. The Joint Secretary, General Administration Department, Bihar, Patna.
8. The Deputy Secretary, General Administration Department, Bihar, Patna.

... .. Appellant/s

Versus

1. Md. Kabir, Son of Md. Ayub, Resident of Village - Barail, Police Station- Kamtaul, District- Darbhanga.
2. The Secretary, Bihar Public Service Commission, Patna.
3. The Accountant General (A and E), Bihar, Patna.

... .. Respondent/s



Appearance :

(In Letters Patent Appeal No. 1000 of 2024)

For the Appellant/s	:	Mr.Mrigank Mauli, Sr. Advocate Mr.Satyeshwar Prasad, Advocate Mr.Rakesh Kumar, Advocate Mr.Sanket, Advocate
For the State	:	Mr.Anjani Kumar, AAG4 Mr.AC to AAG4
For the BPSC	:	Mr.Sanjay Pandey, Advocate Mr.Nishant Kr. Jha, Advocate
For the AG	:	Mr.Bindhyanchal Rai, Advocate
(In Letters Patent Appeal No. 1014 of 2024)		
For the Appellant/s	:	Mr.Manoj Kumar (Ac To Gp 4)
For the Respondent/s	:	Mr.Sanjay Pandey
For the BPSC	:	Mr.Sanjay Pandey, Advocate Mr.Nishant Kr. Jha, Advocate
For the AG	:	Mr.Bindhyanchal Rai, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

4 18-09-2025

Re: LPA No. 1000 of 2024 & 1014 of 2024

These two LPAs are filed by *Md. Kabir* and State in assigning the order of learned Single Judge dated 27.08.2024 passed in CWJC No. 10533 of 2018.

2. *Md. Kabir* has assailed the order of learned Single that it is not a case of remand on the ground that the learned Single Judge has drawn an inference that there is no misconduct with reference to the proved charges – 5, 6 & 7.

3. Whereas, the State has assailed the entire order of the learned Single Judge dated 27.08.2024 passed in CWJC No. 10533 of 2018 to the extent that there is no infirmity in the impugned action of the respondents from the stage of initiation of inquiry till imposition of penalty.

4. Learned counsel for *Md. Kabir* submitted that



other than misconduct is not attracted, he has raised a certain grounds, namely, along with the charge memo there is no list of witnesses. Further, charges are based on a preliminary inquiry held by the vigilance. In such an event, author of the preliminary inquiry (vigilance) should have been listed and examined as a witness in order to prove the report of vigilance. State have not disputed that they have not issued a list of witnesses. In order to prove charges in a departmental inquiry witnesses are required to be examined and cross-examined in support of the alleged allegations read with relevant document/s, such exercise has not been undertaken by the Disciplinary Authority/Inquiring Authority. It is to be noted that Md. Kabir has not assailed the charge memo so as to examine whether reading of the charge amounts to misconduct or not? On the other hand, he has surrendered his right before the inquiry proceedings till imposition of penalty. Therefore, in the absence of challenge to the charge memo finding of the learned Single Judge that charges do not amount to misconduct cannot be appreciable.

5. Taking note of the aforementioned material information, there is no infirmity insofar as remanding the matter to the Disciplinary Authority to commence the inquiry from the defective stage, namely, furnishing a list of witnesses, and thereafter the Disciplinary Authority/Inquiry Authority are



hereby directed to strictly adhere to the relevant CCA Rules and complete the inquiry proceedings within a period of four months from the date of receipt of this order. Order of the learned Single Judge is modified to the above extent.

6. *Md. Kabir* is hereby directed to co-operate in the aforementioned afresh proceedings from the defective stage. The punishment imposed on 13.07.2012 is set aside, and whatever the service benefits from 13.07.2012 till passing of final order afresh, *Md. Kabir* is entitled to, and the same shall be examined by the Appointing Authority and extend all service and monetary benefits as if the punishment did not exist in the eye of law.

7. With the above observation, both the LPAs stands disposed of.

8. Pending Interlocutory Application(s), if any, stands disposed of.

(P. B. Bajanthri, ACJ)

(Alok Kumar Sinha, J)

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