

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15856 of 2023

Arvind Alok Son of Ram Pravesh Prasad, resident of Satyam Shivam Colony,
South of R.P.S. Law College, P.S. Danapur, District Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Labour Resources, Government of Bihar, Patna.
2. The Director Employment and Training, Labour Resources, Government of Bihar, Patna.
3. The Deputy Secretary, Labour Resources, Government of Bihar, Patna.
4. The Joint Labour Commissioner cum Conducting Officer, Labour Resources, Government of Bihar, Patna.
5. The Officer on Special Duty, Labour Resources, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Prabhat Ranjan
For the Respondent/s	:	Smt. Anuradha Singh (SC 21)
		Ms. Nutan Kumari Sharma

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 07-02-2025

Heard finally.

2. This petition has been preferred by the petitioner

seeking following reliefs:

“(i) Quashing of the Letter/order bearing Memo No. 2680 dated 27.12.2019 by which, the Director, Employment and Training, Labour Resources Department, Patna has framed the Memo of Charge in extreme derogation of the statutory



requirement of decision on initiation of proceedings being taken by the Disciplinary authority, the Director without authority of law has constituted a Three Member Committee.

(ii) Quashing of the Resolution bearing Memo No. 1367 dated 28.07.2021 by which, on the basis of the defective Memo of Charge, the proceeding have been initiated under the provisions of Bihar Government Servant (Classification, Control and Appeal) Rules, 2005;

(iii) Quashing of the Enquiry Report dated 18.02.2022 as communicated vide Letter No. 501 by which, the Enquiry Officer, contrary to the procedural requirement under Rule 17 of the Bihar Government Servant (Classification Control and Appeal) Rules, 2005 has proceeded to continue with the Departmental Enquiry and submitted the perfunctory enquiry report in the absence of any participation by the presenting Officer.

(iv) Quashing of the Letter No. 830 dated 08.04.2022 by which, after lapse of two months of the submission



of the enquiry report, the petitioner has been asked to submit the Second Show Cause Reply against the enquiry report without furnishing the relied upon documents by the Enquiry Officer which was annexed along with the enquiry report;

(v) Quashing of the consequential punishment order as contained in Resolution bearing Memo No. 441 dated 10.02.2023 by which, the Disciplinary Authority on the basis of the irregular Departmental proceedings, has inflicted a major penalty withholding of two increments with cumulative effect.

(vi) Quashing of the consequential order bearing Memo No. 2045 dated 24.07.2023 by which, the Disciplinary Authority / Government has dismissed the review filed by the petitioner without assigning any cogent reason; and

(vii) Restraining the respondents from giving effect to order dated 10.02.2023 as contained in Resolution bearing Memo No. 441 by which, the major penalty of stoppage of two increments with cumulative effect has been inflicted during the



pendency of the present writ application.”

3. The brief facts of the case is that on 05.07.2016 the petitioner joined on the post of Principal of I.T.I, Begusarai and on 25.08.2018 a detailed notice pertaining to examination fee etc. for the scheduled examination SCVT, 2018 was affixed on a notice board. The examination was held as per scheduled and the result was declared on 15.04.2019. After declaration of the result, certain allegations were made by some of the unsuccessful candidates that some of the employees of the I.T.I. college were collected illegal amount from the candidates. Some persons were also made a video-graph and the same was also uploaded on the YouTube. The Director of the Employment and Training, Labour Resources Department constituted a three member committee for making a comprehensive enquiry in connection with video, which was uploaded on the YouTube relating to the affairs of the I.T.I. college. The committee submitted its report on 11.06.2019. No any adverse remarks was reported against the petitioner. However, the committee opined that the petitioner being a Principal did not take any action. Therefore, it may be presumed that he had given deemed consent. On the basis of the enquiry report, the explanation was sought from the petitioner, which has been duly replied by the



petitioner vide Annexure-P/4. Subsequently, the Director, Employment and Training framed a Memo of Charge against the petitioner on 27.12.2019 and forwarded the same to the Deputy Secretary, Labour Resources Department, Government of Bihar for further necessary action. Subsequently, the memo was issued by the Deputy Secretary vide Memo No. 293 dated 11.02.2020 asking the petitioner to show cause within 15 days as to why disciplinary action be not taken against him. The petitioner submitted its detailed reply vide Annexure-P/7. Being dissatisfied by the reply of the petitioner, the disciplinary authority vide its order dated 28.07.2021, Annexure-P/8 decided to initiate a departmental proceeding against the petitioner. The enquiry officer concluded the enquiry and submitted its report dated 18.02.2022, Annexure-P/11 to the disciplinary authority. The disciplinary authority issued a second show cause to the petitioner and time was sought by the petitioner for filing his reply. He also asked for certain information and relied upon the documents. Subsequently, the petitioner filed a detailed reply to the second show cause replying each and every allegations and a categorical plea was also taken by the petitioner that the C.D. which was provided to the petitioner was broken and therefore, cannot be played. However, the disciplinary authority vide its



order dated 10.02.2023, Annexure-P/16, inflicted the punishment of stoppage of two annual increment with cumulative effect in terms of Rule 14(vi) of the Bihar Government Servant (classification, control and appeal), Rule 2015. The order of penalty was communicated to the petitioner vide Annexure-P/17. The petitioner filed a review application before the competent authority vide Annexure-P/18 which has also been dismissed by the competent authority vide its order dated 24.07.2023, Annexure-P/19 and hence, this petition.

4. It is submitted by the learned counsel for the petitioner that the Memo of Charge dated 27.12.2019 has not been framed as per the requirements of Bihar Framing of Articles of Charge against Government Servant Regulation, 2017, inasmuch as the Memo of Charge was special Reference to Part (4)(B) should contain the details and list of witnesses which, in the instant case is absent. He further submits that after submission or receipt of the defence reply under Rule 17 (3) and Rule 17 (4), it is incumbent upon the disciplinary authority to pass a speaking order as to why the defence statement furnished by the employee is not acceptable, inasmuch as such statutory safeguard cannot be rendered an idle ceremony or an empty formality. He further submits that in the present case, no witness



has been presented nor examined in the entire enquiry so as to prove the allegations.

5. Reliance has been placed by the counsel in the judgment passed by the Hon'ble Supreme Court in Civil Appeal arising out of SLP(Civil) No. 29758 of 2018 in the case of ***Satyendra Singh V. State of Uttar Pradesh & Another.*** He further submits that the presenting officer has also not been appointed and the enquiry officer himself played a role of prosecutor and also himself has adduced the evidences and scrutinized the evidences etc., which is not permissible. He further submits that the order of penalty does not consider the second show cause reply filed by the petitioner. None of the ground taken by the petitioner has been considered by the disciplinary authority and the disciplinary authority passed the order mechanically. Lastly, he submits that the disciplinary authority also did not consider the above aspect and affirm the order of disciplinary authority.

6. Learned counsel for the respondents-State opposes the arguments raised by the counsel for the petitioner.

7. I have heard learned counsel appearing for both the parties and perused the documents annexed with the petition.

8. Bare perusal of the charge memo, Annexure-P/5,



it transpired that though the list of documents have been prepared on which the department relied but neither the list of witnesses was prepared nor the same was available. Perusal of the enquiry report dated 18.02.2022, Annexure-P/11, also shows that the enquiry officer did not record any evidence and only on the basis of one enquiry report dated 11.06.2019 arrived at the conclusion that it was within the knowledge of the petitioner that some of the employees were taken illegal money from the candidates even after he did not take any action against those employees. Bare perusal of Annexure-P/7 i.e. explanation to the charge submitted by the petitioner also shows that he categorically mentioned the fact that when he got knowledge of involvement of the alleged employee, he had already been transferred and relieved to other college and therefore, he was not entitled to take any action against those employees. However, the enquiry officer, the disciplinary authority as well as the appellate authority did not consider the above explanation submitted by the petitioner.

9. The enquiry report dated 18.02.2022, Annexure-P/11, also shows that the enquiry officer himself played the role of presenting officer, meaning thereby, he himself played the role of prosecutor as well as Judge, which is also bad in law.



10. The disciplinary authority imposed a major penalty of stoppage of two annual increment with cumulative effect to the petitioner. Dealing with the issue in the case of ***Roop Singh Negi V. Punjab National Bank and Others; (2009) 2 SCC 570***, the Hon'ble Supreme Court held that mere production of the documents is not enough, contents of the documentary evidence have to be proved by examining the witnesses. Relevant paragraph of the judgment passed by the Hon'ble Supreme Court in the case of ***Roop Singh Negi*** (supra) reads thus:

“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.”

11. Again in the case of ***Satyendra Singh Vrs. State of Uttar Pradesh & Anr.*** (supra) the Hon’ble Supreme Court reiterating the above and observed and held as follows:

“13 This Court in a catena of judgments has held that the recording of evidence in a disciplinary proceeding proposing charges of a major punishment is mandatory. Reference in this regard may be held to Roop Singh Negi V. Punjab National Bank and Others and Nirmala J. Jhala V. State of Gujarat and Another.”

12. In the light of the above observations made by the Hon’ble Supreme Court on examination of the facts of this case clearly shows that the petitioner has been punished for major penalty of stoppage of two annual increment with cumulative effect but neither the witness was examined nor any list of witness was provided to the petitioner and without recording of the evidence of any of the witness, the enquiry officer only on the basis of explanation allegedly made by the



petitioner arrived at the conclusion that petitioner had knowledge of irregularities committed by the employees even after that he did not take any action. Therefore, as observed by the Hon’ble Supreme Court in the case of ***Roop Singh Negi V. Punjab National Bank and Others; (supra)***, the impugned orders dated 10.02.2023 (Annexure-P/16) and 24.07.2023 (Annexure-P/19) are liable to be quashed.

13. Accordingly, both the orders are hereby quashed and the writ application is allowed.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	11.02.2025
Transmission Date	NA

