

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17302 of 2023

=====

Rekha Kumari Wife of Vijay Kumar Jha, Resident of Near Durga Mandir,
Pilakhwar, Madhuani, P.S.- Rajnagar, District- Madhubani, Bihar, Pin-
847211.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Home Department, Government of Bihar, Patna.
2. The Inspector General, Inspectorate of Prisons and Correctional Services, Bihar, Patna.
3. The Jail Superintendent, Adarsh Kendriya Kara, Beur, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Vasant Vikas

For the Respondent/s : Mr.Kameshwar Kumar (Gp17)

=====

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 18-09-2025 Heard the parties.

2. This application has been filed on behalf of the
petitioner for the following reliefs:-

(a) For issuance of appropriate writ/writs, order/orders, direction/directions for quashing or setting aside the order dated vide Memo No. 8114 dated 14.09.2023 issued by the Inspector General, Inspectorate of Prisons and Correctional Services, Bihar, Patna whereby and where under the appeal filed by the petitioner has been and rejected and the petitioner has been awarded punishment in the disciplinary proceeding initiated against her.

(b) For issuance of appropriate



writ/writs, order/orders direction/directions for quashing or setting aside the order vide Order No. 298 dated 08.07.2023 contained in Memo No. 8708 dated 08.07.2023 issued by the Superintendent, Adarsh Kendriya Kara, Beur, Patna.

3. The facts of the case in brief is that the petitioner was appointed as government servant on 08.11.2013 on the post of Kakshpal in the Inspectorate of Prisons and Correctional Services and presently, the petitioner is serving on deputation as Kakshpal at Adarsh Kendriya Kara, Beur, Patna. The petitioner was served with a show cause vide Memo No. 7485 dated 13.06.2023 issued from the office of the Superintendent, Adarsh Kendriya Kara, Beur, Patna regarding some lapses on part of her on account of her duty in light of the Rule 830 (iv), (x) of Bihar Jail Manual, 2012 and the petitioner has submitted her reply to the show cause explaining all the accusations made in the show cause.

4. It has been alleged by the petitioner without considering the explanations of the petitioner in the show cause reply, the Superintendent, Adarsh Kendriya Kara, Beur, Patna passed an order vide Order No. 298 dated 08.07.2023 contained in Memo No. 8708 dated 08.07.2023 by which the petitioner was awarded punishment of censure and withholding of two



increments of pay without cumulative effect. Thereafter, the petitioner approached the office of the Inspector General, Inspectorate of Prisons and Correctional Services, Bihar, Patna by filing an appeal dated 07.08.2023 against the order of the Superintendent, Adarsh Kendriya Kara, Beur, Patna but the Inspector General, Inspectorate of Prisons and Correctional Services, Bihar, Patna without considering the merits of the case of the petitioner rejected the appeal of the petitioner and passed an order vide Memo No. 8114 dated 14.09.2023 whereby and whereunder the petitioner's award of punishment by the Superintendent, Adarsh Kendriya Kara, Beur remained unchanged.

5. It is submitted by the learned counsel for the petitioner that the petitioner was awarded punishment in the disciplinary proceeding without initiation of a disciplinary proceeding as provided in the rules of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 as the initiation of the disciplinary proceeding starts with a serving to the accused a set of allegations in the form of charges leveled against him/her in a proper format known as Prapatra 'Ka' but the same has not been done in the case of the petitioner.

6. It is further submitted on behalf of the petitioner



that without appointment of a Presenting officer and a Conducting officer, the petitioner was awarded punishment and the petitioner was also not served with a copy of enquiry report. He further submits that no enquiry was held by the Conducting Officer and the Presenting Officer and the petitioner was never asked to participate in any enquiry in the form of disciplinary proceedings as provided in the terms and conditions in the form of rules provided in the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005.

7. Learned counsel for the petitioner further submits that the award of punishment to the petitioner has been passed without any application of mind as well as in contravention with provisions established in the law and the same may be quashed as the petitioner is a government servant of the Bihar Government and her service is governed vide rules framed in Bihar Government Servants (Classification, Control and Appeal) Rules, 2005.

8. Learned counsel for the State has opposed the application of the petitioner and has supported the impugned orders.

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



10. The Hon'ble Supreme Court in the case of ***Kranti Associates Private Limited*** (supra) has summarized the principals and paragraph 47 of the aforesaid judgment reads 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”.

11. 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.”

12. From the perusal of the impugned orders, it is apparent that the respondent authorities have only reiterated the facts and allegations of the case and have failed to record specific reasons to arrive at a conclusion. It is settled that not providing reasons is antitheses to well reasoned and speaking orders.

13. In the impugned orders, no specific reason has been assigned by the respondent authorities for awarding the punishment to the petitioner and in the opinion of this Court, the disciplinary authority ought to have passed the impugned punishment order only after recording the reasons, since from the reasons assigned in the impugned orders, it could have been inferred whether the disciplinary authority had applied its mind in order to arrive to the conclusion in the form of punishment or not. The impugned orders is therefore cryptic and non-speaking orders and is no order in the eye of law. This kind of cryptic and non-speaking orders does not reflect any independent or objective application of mind by the respondent authorities and



therefore, the same are bad in law and cannot be sustained.

14. In view of the law laid down by the Hon'ble Supreme Court and the fact that the impugned orders are bereft of the reasons, the present writ petition stands allowed.

15. Accordingly, the order dated 14.09.2023 issued vide Memo No. 8114 by the Inspector General, Inspectorate of Prisons and Correctional Services, Bihar, Patna as well as the order dated 8.7.2023 issued vide Order No. 298 / Memo No. 8708 by the Superintendent, Adarsh Kendriya Kara, Beur, Patna, are hereby quashed.

(Sandeep Kumar, J)

Vikas/-

U			
---	--	--	--

