

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17447 of 2023

Subhash Kumar Yadav Son of Shiv Nandan Yadav Resident of Mohalla-
Gandhi Nagar, Madhubani, Ward No.-16, P.S.-K,Hat, District-Purnea
... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secreary Home Department, Govt. of Bihar, Patna.
2. The Director General of Police (DGP) Bihar, Patna.
3. The Inspector General of Police, Rail, Bihar, Patna.
4. The Superintendent of Police, Rail Jamalpur.
5. The Deputy Geenral Of Police, Kiul.
6. The Inspector Rail, Jamalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Saroj Kumar Sharma
For the Respondent/s : Mr.Md. N.H. Khan (Sc1)
Mr. Md. Irshad, AC to SC 1

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 23-09-2025 Heard the parties.

2. The present writ petition is being preferred on behalf of the petitioner for issuance of an appropriate writ/writs, order/order, direction/directions to the concerned respondent authorities to quash the order dated 31-12-2022 contained in memo no. 2203/Ra.Ka. passed by the disciplinary authority i.e. Superintendent of Police, Rail, Jamalpur whereby and where under the petitioner has been inflicted with the punishment of withholding of increment for one year without cumulative effect and also for quashing the order dated 01-06-2023 contained in memo no. 996/Ra.Ka passed by Inspector General of Police, Railway, Bihar, Patna by which the appeal of the petitioner has also been rejected.

3. The case of the petitioner in brief is that the



petitioner got appointed to the post of constable in Bihar Police in the year 1997 and was posted at Kishanganj District of Bihar. Subsequently the petitioner was transferred to Katihar in the year 2007 and later was transferred to Muzaffarpur as a constable in Railways. Further in the year 2013 the petitioner was transferred to Katihar Rail Police and was promoted to the post of A.S.I. in the year 2017, post which he was transferred to Jamalpur Rail Police in 2021 and was entrusted with platform duty at the Bhagalpur Platform between 10:00 pm to 06:00 am.

4. Thereafter, on 01.01.2022 vide Memo no. 01/2022, the Police Inspector, Railways Zone, Jamalpur, Bhagalpur complained to the S.P. Rail, Jamalpur alleging that on 30-12-2021 a robbery was committed in train no. 13401 i.e. Bhagalpur Danapur Intercity Express and during the course of investigation, it came to light through the C.C.TV. footage of the platform that in the night of 29-12-2021 between 22:00 PM to 06:00 AM, the petitioner and another constable Sikandar Paswan were not present at the platform but were rather sitting in the Police Station (Sarista), which shows dereliction and ignorance of their lawful duty.

5. In furtherance of the abovementioned complaint, the petitioner was asked to submit his show cause vide Memo.



No. 71/Ra.Ka, dated 13.01.2022 within three days. The petitioner submitted his show cause reply dated 17.01.2022, denying the allegations levelled against him, saying therein that he has duly performed his duties but the disciplinary authority i.e. the S.P. Rail, Jamalpur upon being dissatisfied with the show cause of the petitioner, initiated departmental proceeding i.e. Departmental Enquiry No. 20/22 against him vide District Order No. 267/2022 dated 14.02.22 and framed a Memo of Charge against the petitioner.

6. The learned counsel for the petitioner submits that the Conducting Officer namely Vinay Ram, D.S.P, Rail Police, Jamalpur, in his findings of the departmental proceedings, vide Memo no. 256/22 dated 27.06.2022, exonerated the petitioner and found him to be innocent against the charges framed against him on the ground that the entries made in the station dairy have been duly signed by Police Station In-charge of Rail Police Station Bhagalpur namely Arvind Kumar. He further submits that on the perusal of the case diary it is clear that the petitioner was never absent from the platform duty and he had performed his duties.

7. It is further submitted by the learned counsel for the petitioner that the disciplinary authority upon being



dissatisfied by the enquiry report of the earlier conducting officer, ordered a De Novo enquiry on the petitioner vide Memo no. 1186/Ra.Ka., Dated 11.07.2022 and appointed Imran Parwez, D.S.P, Rail, Kiul as Conducting officer, and thereby departmental proceeding i.e. Departmental Enquiry no. 20/22 was again started against the petitioner. He further submits that the later Conducting Officer, vide Memo no. 1065/उपरा, dated 18.11.2022 found the petitioner to be guilty of the charges as contained in the Memo of charge.

8. Further it is submitted by the learned counsel for the petitioner that after the completion of the proceedings of the said departmental enquiry, the S.P. Rail, Jamalpur vide Memo no. 2069/Ra.Ka. dated 08.12.2022, asked for the second Show-Cause from the petitioner. Thereupon, the petitioner submitted his second show-cause on 12.12.2022, denying the charges levelled against him. Subsequently being dissatisfied by the second show-cause submitted by the petitioner and agreed by the findings of the latter conducting Officer, the S.P. Rail, Jamalpur vide Memo no. 2203/Ra.Ka dated 31.12.2022, found the petitioner to be guilty of the charges contained in the memo of charge and withheld the increment for one year without cumulative effect as punishment.



9. The learned counsel for the petitioner further submits that being aggrieved by the findings of the conducting officer and punishment implicated by the disciplinary authority, the petitioner also preferred an appeal before the I.G of Police, Rail, Bihar, in which the appellate authority, without considering the facts available on record, rejected the same on 11.05.2023 and did not interfere with the findings of the later conducting officer and the punishment implicated by the Disciplinary Authority. The same was confirmed by the S.P, Rail, Jamalpur vide Memo no. 996/Ra.Ka. dated 01.06.2023.

10. The learned counsel for the petitioner further submits that the De-Novo enquiry conducted against the petitioner is totally arbitrary in nature, since the fundamental rule for conducting a De-Novo enquiry is that it shall be conducted only when there has been violation of Natural Justice but herein no such violation had occurred as the petitioner was already exonerated vide Memo no. 256/22 dated 27.06.2022. He further submits that none of the witnesses have supported the allegations against the petitioner, rather they have just supported the exhibited documents. Also, from the C.C.T.V. footage, it is evident that the petitioner was sitting in the station and the same has already been mentioned in the show cause however, these



facts were not taken into consideration by the latter conducting officer.

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

12. I have considered the submissions of the parties.

13. Upon finding the show cause of the petitioner to be unsatisfactory, the disciplinary authority initiated a departmental proceeding against the petitioner but from the perusal of the enquiry report vide Memo No. 256/2022 dated 27.06.2022, it appears that the earlier conducting officer found the petitioner to be innocent after taking on record the statements of witnesses and other relevant materials. However, the disciplinary authority being dissatisfied by the earlier enquiry report, initiated a De novo enquiry against the petitioner without ascribing any reasons for the same except making a bald reason of the same being erroneous.

14. In the case of *Ashok Kumar Versus State of Bihar & Ors*, reported as *2021 (2) BLJ 117*, it has been held at paragraph 9 as under:

"9. No provision under the Rules contemplates a second departmental inquiry.



In case, a Disciplinary Authority notices any serious defect having crept into the inquiry or some important witnesses could not be examined because of their nonavailability, he could have remitted the matter back to the Enquiring Authority for further inquiry as contemplated under sub-rule (1) of Rule 18 of the Rules."

15. In the opinion of this Court, on general principles there can be only one enquiry in respect of a charge for a particular misconduct as held by the Hon'ble Supreme Court in the case of ***UOI v K.D. Pandey & ors.*** reported as ***(2002) 10 SCC 471*** in which it has been held by the Hon'ble Supreme Court that where the enquiry report contains specific findings in favour of the employee after discussing the matter and where the disciplinary authority does not find that in the enquiry, the employer did not have opportunity of leading evidence or that the findings were perverse and remission of the matter for a further enquiry would be unjustified and would amount to a second enquiry on the same set of charges resulting in abuse of process of law. In the present case, no categorical finding of erroneous proceedings has been found.

16. Considering the aforesaid facts I am of the view



that after receiving the enquiry report the disciplinary authority may find it difficult to agree with the findings in the enquiry report but the rules generally provide that in case of such disagreement the disciplinary authority must record its reasons and also record its own findings if the evidence already on record is sufficient for that purpose or remit the case to the enquiry authority. However, in the case at hand, the disciplinary authority did not provide the petitioner with the tentative reasons for its proposed disagreement and passed a cogent unreasoned order and accordingly initiated a De novo departmental proceedings which is against the well settled principles of law and the impugned orders cannot be sustained.

17. In view of the above, this application is allowed.

18. Accordingly, the order dated 31-12-2022 contained in memo no. 2203/Ra.Ka. passed by the Superintendent of Police, Rail, Jamalpur and the order dated 01-06-2023 contained in memo no. 996/Ra.Ka passed by Inspector General of Police, Railway, Bihar, Patna, are hereby quashed.

(Sandeep Kumar, J)

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