

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1097 of 2024

Pradeep Kumar @ Pradeep Kumar Paswan son of Late Pavitra Paswan,
resident of Village-Benipur, P.O. Benipur, Police Station-Bahera, District-
Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary cum Principal Secretary (Home) Department of Home, Government of Bihar, Sardar Patel Bhawan, Bailey Road, Patna.
2. The Additional Chief Secretary cum Principal Secretary (Home) Department of Home, Government of Bihar, Sardar Patel Bhawan, Bailey Road, Patna.
3. Additional Secretary, Home Department, Government of Bihar, Sardar Patel Bhawan, Bailey Road, Patna.
4. The Director General of Police, Bihar, Patna, Police Head Quarter, Sardar Patel Bhawan, Bailey Road, Patna.
5. The Additional Director General of Police (Head Quarter), Sardar Patel Bhawan, Bailey Road, Patna.
6. The Inspector General of Police, Darbhanga Range, Darbhanga.
7. The Deputy Inspector General, Darbhanga Zone, Darbhanga.
8. The Superintendent of Police, Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan
For the Respondent/s : Mr. Standing Counsel 7

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 20-01-2025

Heard finally.

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

*“i. For issuance of an appropriate writ,
order or direction in the nature of
certiorari to quash the order as
contained in Memo No. 59/R.O. dated*



04.01.2012 passed in Department Proceeding No. 48 of 2012 by Superintendent of Police, Katihar whereby the petitioner has been inflicted with the punishment of stoppage of increment for 6 months which has erroneously been treated as equivalent to one black mark which order is illegal and unsustainable as minor punishment has been made equivalent to major punishment and further, the impugned order and departmental proceeding having been conducted in complete violation of principle justice as inquiry officer himself performed the role of presenting officer and no witness has been examined in presence of the petitioner to provide him the opportunity to cross-examine him which vitiates the entire proceeding.

ii. For a direction to declare and hold that the Respondent No. 6 has passed an anti-dated order dated 04/01.2012 issued vide Memo No. 59/R.O. as order of punishment could not proceed the departmental proceeding which clearly shows that the entire proceeding was vitiated by biasness and suffers from vice of procedural fairness.

iii. For any other relief/reliefs to which



the petitioner is entitled under law.”

3. The fact of this case is that in the year 1994, the petitioner was appointed to the post of Sub-Inspector in the Bihar Police. After completion of his probation period, the services of the petitioner was regularized and confirmed on the post of Sub-Inspector. Subsequently, in the year 2010, he was posted as Officer-in-Charge Korha Police Station in Katihar District. On 10.11.2010, first information report bearing Korha P.S. Case No. 211 of 2010 was registered by the petitioner for the offences punishable under Sections 328, 307, 379, 120B and 34 of the Indian Penal Code.

4. The matter was investigated by the petitioner. Due to certain circumstances, there was some delay in writing the case diary. The Superintendent of Police while supervising the case in Report No. II has stated that a show cause notice may be issued to the petitioner for delay in writing the case diary. Subsequently, charge memo was issued to the petitioner on 24.11.2012 and finally, inquiry officer submitted its report and on the basis of inquiry report, the Superintendent of Police, Katihar imposed the punishment of stoppage of increment for six months which was treated as equivalent to one black mark has been passed and hence, this petition.

5. Learned counsel for the petitioner would submit



that charge memo dated 24.11.2012 has never been served upon the petitioner. The documents i.e. Report-II and Special Report-III, which have been relied by the inquiry officer has also not been served upon the petitioner, nor supplied to him during course of inquiry. He further submits that the list of witnesses was also not given to the petitioner nor any opportunity of cross-examination of the witnesses was given to the petitioner. He further submits that in the departmental proceeding, no presenting officer was appointed and thus, the inquiry officer performed the dual role of the prosecutor as well as adjudicature, which vitiates the entire proceedings of inquiry. He further submits that the second show cause notice as well as copy of inquiry report has also not been supplied to the petitioner. He has never been communicated with the order and therefore, was not aware or had no knowledge regarding passing of the impugned order dated 04.01.2012. When his candidature for promotion has not been considered by the department in the year 2019 then petitioner inquired in the department in the year 2020 then he came to know about the passing of the impugned order dated 04.01.2012. Since the department has not granted any opportunity of hearing to the petitioner, there was gross violation of principle of natural justice. Therefore, on this



ground only the impugned order is liable to be quashed.

6. The learned counsel for the respondents-State opposes the argument raised by the counsel for the petitioner and submits that explanation dated 24.12.2012 submitted by the petitioner clearly shows that he had full knowledge of the departmental proceeding. Therefore, the contention raised by the counsel that the violation of principle of natural justice is concerned is not acceptable. He further submits that the peon book of the period from November, 2012 to January, 2013 is not available in the office. Therefore, the respondents-State is unable to bring on record the material, which shows that charge memo, inquiry report and punishment order have been served upon the petitioner.

7. Heard learned counsel appearing for the parties, perused the documents annexed with the petition and the counter affidavit submitted by the respondents-State.

8. The respondents-State is unable to produce any document, which shows that any charge memo, inquiry report and punishment order have ever been served upon the petitioner. They also unable to place any document, which shows that at the time of inquiry, any list of witnesses was served upon the petitioner. Further, they also unable to show any material, which



shows that while inquiry proceeding, the inquiry officer recorded statement of any witnesses. It is specially mentioned in the petition that petitioner was not provided any opportunity to cross-examine any witness. The respondents-State in their counter affidavit has unable to reply on this point, which also shows that petitioner has not been provided any opportunity of cross-examining the witnesses. The respondents-State further failed to produce any document, which shows that the inquiry report and order of punishment has ever been served upon the petitioner. Merely on the basis of explanation submitted by the petitioner dated 24.12.2012, it cannot be said that petitioner has been given any opportunity of any hearing in the departmental proceeding. Since no opportunity of hearing has been provided to the petitioner, he has not been given any list of witnesses, list of document and further, he is also not legally served with the inquiry report, nor he has been served any show cause notice. It is quite clear that there is clear cut violation of principles of natural justice is present.

9. Therefore, on the ground, as discussed hereinabove, the impugned order dated 04.01.2012 passed by the Superintendent of Police, Katihar is liable to be set aside. Accordingly, the petition is allowed. The order dated



04.01.2012, as contained in Memo No. 59/R.O., passed in the
Departmental Proceeding No. 48 of 2012 by the Superintendent
of Police, Katihar is, hereby, quashed.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.01.2025
Transmission Date	NA

