

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.770 of 2022

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Dhirendra Kumar S/o Late Anandi Prasad Singh, Resident of Mohalla - Sanjay Gandhi Nagar, Kali Mandir, Road No.- 9, Hanuman Nagar, Patna - 26 (Retd. Assistant Engineer cum Sub Divisional Officer, Irrigation, Sub - Division, Nawanagar, Buxar).

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Water Resources Department, Govt. of Bihar, Patna.
2. The Additional Secretary, Water Resources Department, Bihar, Patna.
3. The Engineer-in-Chief (North), WRD, Patna.
4. The Superintending Engineer, Planning and Monitoring Circle - IV, Water Resources Department, Bihar, Patna.
5. The Executive Engineer, Irrigation Division, Nawanagar, Rohtas.
6. The Additional Secretary to Govt. Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dudh Nath Singh, Advocate
For the State : Mr. Vinay Kirti Singh (GA-2)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 27-07-2026

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for the
following relief/s:-

*“I. For issuance of direction/directions or
order/orders or writ/writs particularly in the
nature of certiorari to quash the order dated
12.11.2018 contained in Resolution No.-
2360 issued under the signature of
Additional Secretary to the Govt. in pursuant*



to the order of Governor of Bihar whereby and whereunder major punishment of withholdment of three increments permanently and promotion from due date stopped for two years as well as review order dated 10.09.2020 contained in Memo No.-1126 by which review petition has been rejected by saying that non availability of new fact contrary to the available fact brought on record by the petitioner and another review order dated 23.12.2021 contained in Letter No.-22 by which affirm the earlier review order passed by Resolution No.-1126 dated 10.09.2020 without consideration of representation cum petition of review.

II. For issuance of direction/directions or order/orders or writ/writs particularly in the nature of mandamus for commanding and directing the respondent authorities after quashment of impugned orders consequential benefit of restoration of increment and promotion with due date and its pecuniary benefits.

III. For any other incidental and consequential relief to which the petitioner is found fit under the fact and circumstances of this case.”

3. Learned counsel for the petitioner submits that



the petitioner was selected through the Bihar Public Service Commission and appointed as Junior Engineer in the department of Water Resource, Govt. of Bihar on 20.01.1987 and after obtaining degree of B.Tech in Civil Engineering in the year, 1988, he promoted to the post of Assistant Engineer on 18.08.2001 and thereafter, he continued upto his retirement on 30.09.2020. Counsel submits that when the petitioner was posted as Assistant Engineer cum Sub Divisional Officer, Irrigation Department, Nawanagar, construction of Malai Barrage on river Kao was started under Irrigation Division, Nawanagar. He submits that under the scheme of construction of right guide bandh over river Kao Malai Barrage, State Govt. through the Executive Engineer, Irrigation Division, Nawanagar entered into an agreement with M/s Jay Mahaveer Enterprises *vide* Agreement No. SBD1/2012-13 and its completion period as per the agreement was two years. The cost of the agreement was Rs. 2,56,21,188/- (Rupees Two Crores Fifty Six Lacs Twenty One Thousand One Hundred Eighty Eight). Counsel further submits that under the aforesaid scheme, another agreement was executed between the Executive Engineer, Irrigation Division, Nawanagar with M/s Jay Mahaveer Enterprises *vide* Agreement No. SBD2/2012-13 for construction of left guide bandh over river Kao, Irrigation Division, Nawanagar with agreement cost



of Rs. 2,55,09,537/- (Rupees Two Crores Fifty Five Lacs Nine Thousand Five Hundred Thirty Seven) and its completion period as per the agreement was also two years. He submits that in course of execution of work, flying squad has been approved by the department and a three men flying squad team was constituted and it was intimated to the Additional Secretary that the petitioner was *prima-facie* guilty and *Prapatra-Ka* has been issued against him on 03.02.2015 and the decision was taken for initiation of departmental proceeding against the petitioner *vide* Memo No. 514 dated 24.02.2015. Counsel submits that in course of preliminary enquiry through flying squad team, the petitioner was neither in form nor ask anything about his discharge of duty and responsibility nor the Disciplinary Authority prior to framing of charge or initiation of departmental proceeding issue show cause notice to the petitioner and all of a sudden, departmental proceeding was initiated and a copy of the same has been served upon the petitioner.

4. Learned counsel for the petitioner further submits that the petitioner become aware of framing of charge only after receiving the said Memo No. 514 dated 24.02.2015. There were five charges alleged against the petitioner. In respect of all five charges, he was found *prima-facie* guilty. Consequently, charges were framed against him on the basis of the finding that a *prima-*



facie case existed. Thereafter, the matter was referred to the Disciplinary Authority for further proceedings. Counsel submits that the petitioner has submitted his written defence before the Enquiry Officer and taken the plea that the estimate was prepared for construction of the said barrage was approved by the Chief Engineer and there is a separate estimate for bolder supply and pitching work. He has taken the plea that preparation of revised estimate and bifurcation of item is not a misconduct and the petitioner has denied each and every charges levelled against him. The Presenting Officer neither produced any documentary evidence nor any oral evidence, save and except, the enquiry report of flying squad team and his opinion and on the basis of opinion, all charges were proved against the petitioner. Counsel further submits that the Disciplinary Authority agreeing with the enquiry report of the Enquiry Officer issued second show cause *vide* Letter No. 22/नि० सि० (डि०)—14—01 / 2014 / 267 (अनु) dated 21.02.2017 and in response to the same, petitioner has filed his detailed reply on 12.04.2017. But, none of his explanation given in the second show cause has been taken care of and the petitioner has been held guilty with punishment of permanent reduction by three pay stages in the time scale of pay and stoppage of promotion for two years from the due date of promotion. Counsel submits that thereafter, the



petitioner has filed review petition also, but his review petition has also not been considered and it has been rejected. Counsel submits that after the first review petition, the petitioner has filed second review petition which has also been rejected. Counsel further submits that charge memo itself is defective and not a single point of his second show cause has been considered at all. He submits that there is a gross violation of Rule 18 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'Bihar CCA Rules, 2005') in which the legislative direction to consider the points mentioned in the second show cause is there. Counsel, therefore, submits that it is due to the aforesaid reasons, the orders passed by the Disciplinary Authority and the Reviewing Authority, both be set aside.

5. Learned counsel for the State, on the other hand, submits that the interference in orders passed by the Disciplinary Authority and authorities of the departmental proceeding can be made only in three circumstances, viz, procedural lapse/irregularity, violation of principles of natural justice and exorbitant punishment. He submits that here in the present case, the petitioner has been granted opportunity at every level. Therefore, no question of violation of principles of natural justice is there. He further submits that charge memo has been



issued and in response of the charge memo, petitioner was directed to participate in the enquiry before the Enquiry Officer, written statement was demanded and the Enquiry Officer proved all charges against the petitioner. Second show cause was also demanded from the petitioner and he has filed the reply. Counsel submits that the Disciplinary Authority found that no new material has come in the second show cause and therefore agrees on the findings of the Enquiry Officer and imposed punishment upon the petitioner. Thereafter, opportunity of review has also been granted to the petitioner in which also a reasoned and speaking order has been passed. It is due to this reason, he submits that there is no need of any interference in the orders passed by the Disciplinary Authority and the Reviewing Authority.

6. After hearing the parties and upon going through the second show cause which has been demanded from the petitioner on 21.02.2017 which is annexed as Annexure-6 and with regard to the second show cause, the petitioner has filed a detailed reply to the second show cause in which he has explained each and every point *vide* Annexure-7 dated 12.04.2017. But, this Court become very much surprised that in the final order, only one line statement has come that this fact is not considerable without assigning any rhyme and reason. It is



made clear that the Disciplinary Authority is a Quasi Judicial Authority and not an Administrative Authority in the departmental proceeding. There is a distinction between the Administrative Authority and the Quasi Judicial Authority. A Quasi Judicial Authority must have to assign the reason. Here in the present case, this Court finds that no reasons have been assigned as to why the petitioner's reply to the second show cause was not considered. Instead, a one line statement has been given that since the Enquiry Officer has found all the charges proved, the petitioner's second explanation could not be accepted. Such a cryptic observation is not acceptable to this Court and amounts to a violation of the principles of natural justice.

7. In this regard, Rule 18(1), (2), (3) and (4) of the Bihar CCA Rules, 2005 are very much clear which states as follows:-

“18. Action on the Inquiry Report-

(1). The disciplinary authority, if it is not itself the inquiring authority may, for reasons to be recorded by it in writing, may remit the case to the inquiring authority for further inquiry and report and the inquiring authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 17 as far as may be.



(2). The disciplinary authority, after receipt of the enquiry report as per Rule 17 (23)(ii) or as per sub-rule (1), shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own finding on such charge, if the evidences on record is sufficient for the purpose.

(3) The disciplinary authority shall forward or cause to be forwarded a copy of the inquiry report, together with its own findings, if any, as provided in sub-rule (2), to the government servant who may submit, if he or she so desires, his or her written representation or submission to the disciplinary authority within fifteen days.

(4) The disciplinary authority shall consider the representation or submission, if any, submitted by the Government Servant before proceeding further in the manner specified in sub rules (5) and (6).”

8. From the legislative intent, Rule 18(4) of the Bihar CCA Rules, 2005 is very much clear which states that the Disciplinary Authority shall consider the representation or submission, if any, submitted by the Government Servant. This Court finds that here in the present case, the Disciplinary Authority has not considered the representation/submission of



the Government Servant (petitioner) in the present case.

9. Hence, it is due to this reason, the order dated 12.11.2018 contained in Memo No. 2360 (Annexure-1), order dated 10.09.2020 contained in Resolution No. 1126 (Annexure-2) as well as the order dated 23.12.2021 contained in Letter No. 22/नि०सि०(डि०)14-01 / 2014 / 1673 (अनु) (Annexure-3), all are hereby set aside. Since, the original order is itself bad in law, therefore, the first review order as well as the second review order, both are not fit to be sustained.

10. The matter is remanded back to the Disciplinary Authority to pass order afresh considering all the points mentioned in the petitioner's reply to the second show cause dated 12.04.2017 (Annexure-7), specifically as to why those points shall not be considered or not acceptable to him. The said order shall be passed within 90 days from the date of production of this order.

11. Accordingly, with the aforesaid observation and direction, this writ petition stands allowed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	29/07/2026
Transmission Date	NA

