

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1130 of 2022

Radheshyam Ram son of late Chirkut Ram resident of Flat Number 6608
Dream Dwell Apartment, RK Puram near Saguna Mode, P.S. Danapur Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary and Rural Works Department, Visvesvaraya Bhawan, Bailey Road Patna
2. The Principal Secretary, Rural Works Department, Vishveshwarya Bhawan Bailey Road Patna
3. The Deputy Secretary, Rural Works Department, Visvesvaraya Bhawan, Bailey Road, Patna
4. The Engineer in Chief, Rural Works Department, Visvesvaraya Bhawan, Bailey Road, Patna
5. The Chief Engineer, Rural Works Department, Vishveshwarya Bhawan, Bailey Road, Patna
6. The Special Executive Officer, Rural Works Department, Vishveshwarya Bhawan, Bailey Road, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Mishra, Sr. Advocate Mr. Manas Rajdeep, Advocate Mr. Shubham Kumar Upadhyay, Advocate Ms. Megha Rani, Advocate Ms. Manini Jaiswal, Advocate
For the Respondent/s	:	Mr. Kumar Alok, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT

Date : 16-06-2026

Heard Mr. Sanjeev Kumar Mishra, learned Senior
counsel for the petitioner and Mr. Kumar Alok, learned
counsel for the respondents.

2. The petitioner has filed the instant application
for the following reliefs:

“(i) For quashing the



order vide memo no. 1847 dated 24.12.2021 issued under the signature of the Respondent Deputy Secretary, Rural Works Department whereby and whereunder it has been directed that 10 percent of the petitioner's pension be deducted for the next 5 years as penalty.

(ii) For payment of amount deducted from the pension of the petitioner with respect to the memo no. 1847 dated 24.12.2021 issued by the Respondent Deputy Secretary.

(iii) For any other order/orders that your lordship may deem fit and proper.”

3. The case of the petitioner in brief is that he was appointed as a Junior Engineer on 6.10.1983 and was granted promotion to the post of Assistant Engineer in the year 1992 with effect from 1990. In the year 2010 he was promoted to the post of Executive Engineer.

4. While posted as Executive Engineer in the Rural Works Department at Darbhanga, the petitioner was served with a show cause notice dated 20.7.2016 followed by a memo of charge dated 11.6.2016 (hereinafter referred to as



the first memo of charge).

5. The charge against the petitioner in the first memo of charge was to the effect that an inspection was carried out between 22.7.2015 and 25.7.2015 by the Estimate Committee of the Bihar Legislative Assembly when it transpired that the average thickness of the PCC was 6" instead of the standard 8". This show that the earlier PCC had not been dismantled and without carrying out any technical treatment of the same, contrary to the standard practice, the PCC had been constructed over the same. This clearly show that there had been financial irregularity. The first memo of charge contained the reference to the evidence being the inspection report of the Estimate Committee contained in letter no.65 dated 18.1.2016 of the Parliamentary Affairs Department.

6. The petitioner replied to the first memo of charge on 11.2.2019.

7. In the meantime, the petitioner having retired from service on 29.2.2020, by order dated 3.7.2020 of the Rural Works Department, Government of Bihar, the proceedings against the petitioner was converted into one under Rule 43(b) of the Bihar Pension Rules.



8. The petitioner was in receipt of another letter no.1317 dated 12.8.2020 from the Additional Secretary, Rural Works Department, Government of Bihar. It was stated therein that delay had been caused in payment of the revised salary on account of the admitted ACP to the petitioner in C.W.J.C. no.18420 of 2017 (Shambhu Prasad Yadav vs. The State of Bihar and Ors.) wherein the Patna High Court had passed order dated 1.7.2020. The letter stated that the petitioner had been found at fault for the delay in payment to the petitioner in the said case and a recommendation had been made to proceed against him.

9. The petitioner was asked to respond to the charge levelled against him in the proceedings started under Rule 17 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (in short 'CCA Rules') within a period of 15 days.

10. The charge against the petitioner was that he was responsible for the delay in payment to the petitioner in CWJC no.18420 of 2017. This charge is hereinafter referred to as the second memo of charge.

11. The petitioner submitted his reply on 14.8.2020.



12. The petitioner received a letter dated 15.12.2021 from the Special Secretary, Rural Works Department, Government of Bihar. The letter stated that the contents of the reply filed by the petitioner to both the first memo of charge as also the separate reply to the second memo of charge had both been found unsatisfactory and was not fit to be accepted. Having gone through the material on record in both the cases, a decision had been taken in the department to proceed against the petitioner under Rule 139 of the Bihar Pension Rules for the proved charges. The petitioner was directed to file his reply to the show cause within 7 days under Rule 139 of the Bihar Pension Rules as to why 10% of his pension be not deducted for a period of 5 years for the proved charges.

13. The petitioner replied to the show cause on 20.12.2021.

14. The respondents came out with the order of punishment contained in memo no.1848 dated 24.12.2021 issued under the signature of the Deputy Secretary, Rural Works Department, Government of Bihar on the orders of the Governor, Bihar imposing the punishment of deduction of 10% of the petitioner's pension for a period of 5 years. It is



this order dated 24.12.2021 which has been challenged by the petitioner in the instant application.

15. It is submitted by learned Senior counsel appearing for the petitioner that inspite of the petitioner having retired from service on 29.2.2020, the proceedings with respect to delay in payment to the petitioner of C.W.J.C. no.18420 of 2017 was started against him post retirement by serving a copy of the second memo of charge on 12.8.2020 under Rule 17 of the CCA Rules. Further the second show cause notice was served on the petitioner on 15.12.2021 without providing to him a copy of the enquiry report of the Conducting Officer. The order of punishment dated 24.12.2021 impugned herein though mentioned both the charges mentioned in the first memo of charge as also that mentioned in the second memo of charge, however it does not refer to either the enquiry report nor as to how the charges levelled against the petitioner were proved. It does not even mention the witnesses examined. Learned counsel submits that for all these reasons, the order impugned is not sustainable and fit to be set aside.

16. The application is opposed by learned counsel appearing for the respondents. It is submitted by learned



counsel for the respondents that a report was received from the Estimate Committee of the Bihar Legislative Assembly which clearly reflected the irregularities committed by the petitioner in construction of the road from Kakaraul to Dubiyahi under Works Division, Madhubani. It was on receipt of the report that the proceedings were started against the petitioner by serving the first memo of charge and giving an opportunity to reply to the same.

17. Learned counsel for the respondents further submits that the petitioner also did not take steps for pay fixation and making payment of the due amount along with the ACP to Sri. Shambhu Prasad Yadav, retired accounts clerk and the explanation furnished by the petitioner not having been found to be satisfactory, show cause notice was issued to him.

18. The petitioner's reply was received in response to the show cause notice issued under Rule 139 of the Bihar Pension Rules and having considered the contents of the reply, the order of punishment dated 24.12.2021, impugned herein, has been passed. It was submitted that the petitioner has not been able to point any illegality or irregularity in the conduct of the proceedings and has not



made out any case for interference in the order impugned by this Court.

19. Heard learned counsel for the parties and perused the material on record.

20. The relevant facts in brief are that the petitioner while posted as Executive Engineer was issued with a show cause notice dated 20.7.2016 followed with the first memo of charge on 11.6.2016 which related to average thickness of the PCC road having been found to be 6" instead of the standard 8". The proceeding with the first memo of charge had been commenced on receipt of a report of the Estimate Committee of the Bihar Legislative Assembly.

21. In the meantime, the petitioner having retired from service on 29.2.2020, by order dated 3.7.2020 the proceedings against the petitioner was converted into one under Rule 43(b) of the Bihar Pension Rules.

22. The petitioner was thereafter served with the second memo of charge along with the show cause notice dated 12.8.2020 initiating a proceeding under Rule 17 of the CCA Rules. The second memo of charge related to the delay in payment of the arrears of revised salary pursuant to grant of benefit of ACP to the petitioner of C.W.J.C. no.18420 of 2017



for which the petitioner was held responsible.

23. The petitioner replied to the said show cause on 14.8.2020. The petitioner was thereafter served with a second show cause notice on 15.12.2021. Mentioning the allegations of both the first memo of charge as also the second memo of charge in the said letter, the petitioner was asked to reply within a period of 7 days as to why an order be not passed for deduction of 10% of pension for 5 years under Rule 139 of the Bihar Pension Rules.

24. The petitioner filed his reply to the show cause dated 20.12.2021 on which the respondents came out with the order dated 24.12.2021 imposing the punishment of deduction of 10% pension of the petitioner for a period of 5 years.

25. A perusal of the records of the case would show that inspite of the categorical statement of the petitioner in paragraph nos.8 and 10 of the petitioner's reply to the counter affidavit that in the departmental proceeding neither a Conducting Officer nor a Presenting Officer was appointed and that the second show cause dated 15.12.2021 was served upon the petitioner without providing him with a copy of the enquiry report, the said statement has not been contested or



contradicted by the respondents in their supplementary counter affidavit. The application is fit to be allowed on this ground alone.

26. It may be observed here that the order of punishment has been passed under Rule 139 of the Bihar Pension Rules. Relevant portion of Rule 139 of the Bihar Pension Rules is reproduced here in below for ready reference:

“139. (a) The full pension admissible under the Rules is not to be given as a matter of course, or unless the service rendered has been really approved.

(b) If the service has not been thoroughly satisfactory, the authority sanctioning the pension should make such reduction in the amount as it thinks proper.

(c) The Appointment authority of the post held at the time of retirement reserve to themselves the powers of revising an order relating to pension passed by subordinate authorities under the control, if they are satisfied that the service of the pensioner was not thoroughly satisfactory or that there



was proof of grave misconduct on his part while in service. No such power shall however, be exercised without giving the pensioner concerned a reasonable opportunity of showing cause against the action proposed to be taken in regard to his pension, or any such power shall be exercised after the expiry of three years form the date of the order sanctioning the pension was first passed.”

27. Rule 139 empowers the State Government of revising an order relating to pension if they are satisfied that the service of the petitioner was not thoroughly satisfactory or that there was proof of grave misconduct on his part while in service.

28. A perusal of the order impugned dated 24.12.2021 would show that none of the two conditions mentioned under Rule 139 are satisfied. There is neither any discussion about the findings in the enquiry report nor as to how the charges as levelled in the first memo of charge and/or the second memo of charge came to be proved against the petitioner. The order also does not refer to any witness having been examined in course of the enquiry in support of the



charges.

29. Thus in the facts of the case, it is a case of no evidence against the petitioner.

30. In the facts and circumstances of the case, taking into consideration the material on record, as discussed hereinabove, in the opinion of the Court, the respondents have failed in bringing home the allegations levelled in the two memo of charges served on the petitioner on 11.6.2016 and 12.8.2020, both of which have culminated in the common order of punishment dated 24.12.2021.

31. Thus the order impugned contained in memo no.1848 dated 24.12.2021 issued under the signature of the Deputy Secretary, Rural Works Department, Government of Bihar is not sustainable and is hereby set aside.

32. The writ application is allowed with all consequential benefits.

(Partha Sarthy, J)

saurovkrishna/-

AFR/NAFR	NAFR
CAV DATE	2.4.2026
Uploading Date	17.6.2026
Transmission Date	NA

