

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1505 of 2022

Subhash Prasad Singh Son of Late Jai Mangal Singh Resident of Village and
P.O.- Srishiya Jagdhish, Via Birhima Bazar, P.S.- Kathaiya, Dist.-
Muzaffarpur (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Revenue and Land Reform Deptt. Govt. of Bihar,
Patna
3. Commissioner Tirhut Division, Muzaffarpur.
4. District Magistrate -Cum- Collector, Muzaffarpur
5. Deputy Collector, Land Reforms, Muzaffarpur
6. Block Development Officer- Cum- Anchal Adhikari, Minapur, District-
Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Arun Kumar, Advocate
For the Respondent/s : Ms. Surekha Kumari, AC to GP-18

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 06-04-2026 Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner has filed the instant application for
the following relief(s):

*“(i) To quash the order dated 31.05.16
passed by Commissioner, Tirhut Division, Muzaffarpur
in service Appeal No. 100/16 by which he has dismissed
the Service Appeal of the petitioner and confirmed the
order being Memo No. 370/ Establishment dt. 30.03.15
passed by Dist. Magistrate/Collector, Muzaffarpur in
departmental Proceeding No. 7/14 by which the learned
Collector has stopped two increments and also ordered*



that the petitioner is not entitled to anything except the suspension allowance.

(ii) To direct the respondents to pay full salary of the petitioner after deducting during the suspension period after deducting the suspension allowance paid as the respondents had illegally passed order of suspension of the petitioner without following the Rule 17 & 18 of the C.C.A Rule 2005.

(iii) To pass any such other order or orders as this Hon'ble Court thinks fit & proper under the facts & circumstances of this case.”

3. The case of the petitioner in brief is that the petitioner who was posted as Clerk in Circle Minapur in the district of Muzaffarpur was proceeded against in a departmental proceeding by serving a copy of the memo of charge in Prapatra 'ka' which has been brought on record as Annexure-1 to the writ application. The petitioner filed a reply to the same and the enquiry proceeded wherein the Conducting Officer ie the Additional Collector, Muzaffarpur submitted his enquiry report dated 5.6.2014. A copy of the enquiry report was provided to the petitioner of which he submitted his response. The disciplinary authority came out with an order of punishment contained in memo no.370 dated 30.3.2015 issued under the signature of the District Magistrate, Muzaffarpur inflicting the punishment of stoppage of two annual increments with non-cumulative effect of the petitioner. The appeal preferred by the petitioner was



rejected vide order dated 31.5.2016 passed in Service Appeal Case no.100 of 2016 by the Commissioner, Tirhut Division, Muzaffarpur. It is the order of punishment dated 30.3.2015 and the order rejecting the appeal dated 31.5.2016 which are under challenge by the petitioner in the instant writ application.

4. The application is opposed by learned counsel appearing for the respondents. Referring to the statement made in the counter affidavit filed, it is submitted that there is no procedural irregularity in the proceedings conducted against the petitioner who was given opportunity to respond and put forward his case at all stages. It is submitted that out of the five Bank drafts disbursed from the Mukhya Mantri Relief Fund for distribution among the flood victims in the year 2007-08, one of the drafts which belonged to the beneficiary of another circle was kept by the petitioner and not returned back even after his transfer. Thus, on discovery of the same, the proceeding was started against the petitioner which ended in the order of punishment impugned in the instant application. There being no illegality in the proceedings and no merit in the instant writ application, the same be dismissed.

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



6. The relevant facts in brief are that while the petitioner was posted as a Clerk in the Circle Minapur in the district of Muzaffarpur in the office of the B.D.O.-cum-C.O., Minapur, he received five Bank drafts under the Chief Minister's Relief Fund for distribution among the flood victims of the year 2007-08. The beneficiary of one of the drafts being a resident of another circle, the same did not reach him and remained in the file of the petitioner. On the same being discovered lead to the departmental proceeding having been initiated against the petitioner on the charges that non-distribution of the draft to the beneficiary of the flood victim showed his negligence towards duty and that the same had been retained by him in the file with wrong intention. The petitioner submitted his reply to the memo of charge and the departmental proceeding continued. An enquiry report came to be submitted by the Additional Collector, Muzaffarpur ie the Conducting Officer on 5.6.2014, a copy of which has been brought on record as Annexure-3 to the writ application.

7. Bereft of unnecessary details, it may be observed here that perusal of the enquiry report would show that neither any witness has been examined in support of the charges levelled against the petitioner by the respondents nor any



document proved by any witness or marked as an exhibit.

8. It has been held by the Hon'ble Supreme Court that even in the departmental proceeding the charges have to be proved on the basis of preponderance of probability by leading evidence. Even tendering of the document would not be sufficient to bring forth the charges levelled against the delinquent employee.

9. At this stage, it would be relevant to refer to the judgment of the Hon'ble Supreme Court in the case of ***Roop Singh Negi vs. Punjab National Bank; (2009) 2 SCC 570*** which held as follows:

“14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as



evidence.”

10. Further, a Division Bench of this Court in the case of ***Devendra Prasad vs. State of Bihar & Ors.*** (judgment dated 19.10.2023 passed in LPA no.1302 of 2017), following Roop Singh Negi (*supra*) observed as follows :

“7. As has been held in Roop Singh Negi v Punjab National Bank and others; (2009) 2 SCC 570, the documents produced in a departmental inquiry has to be proved by examining witnesses. Even an F.I.R. was held to be not evidence by itself without actual proof of facts stated therein. The Hon’ble Supreme Court had also held that even an admission or confession to the police itself is not sufficient to find the delinquent employee guilty in a departmental proceeding if no evidence is brought on record to prove the offence or misconduct alleged. Departmental inquiry was held to be a quasi-judicial proceeding and the Inquiry Officer functions in the status of a quasi-Judicial authority. Not only should evidence be led in a departmental inquiry, the conclusions arrived at should be based on evidence which brings forth a probability that the delinquent has committed the misconduct alleged and charged against him. No Inquiry Report based on conjectures and surmises can be sustained and even in a departmental inquiry, the standard of proof is not a mere suspicion. However high the degree of suspicion is, it cannot be a substitute for legal proof.”

11. No witness having been examined nor any document having been exhibited in proof in support of the



charges, the conclusion arrived at in the enquiry report that the charges levelled against the petitioner came to be proved is erroneous and unsustainable. The consequential order of punishment as also the order passed by the Appellate Authority are also unsustainable.

12. In view of the facts and circumstances of the case, the order of punishment contained in memo no.370 dated 30.3.2015 (Annexure-6) passed by the District Magistrate, Muzaffarpur as also the order dated 31.5.2016 rejecting the appeal filed by the petitioner in Service Appeal no.100 of 2016 (Annexure-7) passed by the Commissioner, Tirhut Division, Muzaffarpur are both unsustainable and are set aside.

13. The writ application is allowed.

(Partha Sarthy, J)

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