

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1966 of 2022

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Mahesh Kumar S/o Mahendra Prasad Sah Resident of Village- Khutia, P.S.-
Mansi, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. D.G. of Police, Bihar, Patna.
3. I.G., Purnia Range, Purnia.
4. S.P., Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ebrahim Kabir, Advocate
		Ms. Shruti Sinha, Advocate
For the Respondent/s	:	Mr. Md. N.H. Khan (SC1)
		Md. Harun Quareshi, AC to SC1

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 20-01-2026

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

2. The present writ petition has been filed for quashing Memo No. 221/Ra.Ka., dated 21.01.2014, issued by the Superintendent of Police, Katihar, whereby the petitioner, who was then working as a Sub-Inspector of Police, was inflicted with the punishment of one black mark equivalent to forfeiture of six months' increment (Annexure-3 to the writ petition). The petitioner has also prayed for quashing Memo No. 1201/Sho.Pra., dated 24.09.2021, issued by the Inspector



General of Police, Purnea Range, Purnea, by which the appeal preferred by the petitioner was rejected (Annexure-6 to the writ petition). Further prayer has been made for grant of all consequential benefits and for passing any other order or orders which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the petitioner belongs to the 2009 batch of Sub-Inspector of Police and, while he was posted in Katihar district, a departmental charge was levelled against him alleging that when he was deputed at Saimapur O.P., on 05.07.2013 and 06.07.2013, the Officer-in-Charge of the said outpost informed the Superintendent of Police, Katihar through wireless that the petitioner, after reporting himself sick on 05.07.2013, had left the outpost, as a result of which no officer was available at the outpost. It was further alleged that the petitioner had prior knowledge that the Gram Panchayat Election, 2013, in Katihar district was scheduled to be held on 07.07.2013, and, therefore, action was sought to be taken against him on the charges of indiscipline, dereliction of duty, and being unfit for police service.

4. Learned counsel further submits that on the basis of



the said allegations, a departmental enquiry was initiated against the petitioner under Rule 828(c), vide Enquiry No. 2/13. The Enquiry Officer, after conducting a full-fledged departmental proceeding, submitted his report holding that the charges levelled against the petitioner were not proved, and consequently found him not guilty.

5. It is further submitted that the Superintendent of Police, Katihar, while differing with the findings of the Enquiry Officer, passed the order of punishment of one black mark equivalent to forfeiture of six months' increment against the petitioner vide Memo No. 221/Ra.Ka., dated 21.01.2014, without assigning any reasons for such disagreement and without affording any opportunity of hearing to the petitioner. Aggrieved thereby, the petitioner preferred an appeal before the Inspector General of Police, Purnea Range, Purnea, which was rejected vide Memo No. 1201/Shi.Pra., dated 24.09.2021. Hence, the present writ petition has been filed.

6. Learned counsel for the petitioner has raised two principal contentions before this Hon'ble Court. Firstly, it has been contended that the Superintendent of Police is not the competent disciplinary authority in respect of a Sub-Inspector of Police. Secondly, it has been submitted that for



adjudication of the disciplinary proceeding, the provisions of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as "*the CCA Rules, 2005*") are applicable, but violation of Rule 18(3) has been made, i.e. 2nd show cause not issued. Hence, the punishment order is illegal.

7. Learned counsel for the petitioner has placed reliance upon the judgment dated 19.01.2023 passed by a Co-ordinate Bench of this Court in CWJC No. 4643 of 2016 (Vijay Kumar Singh vs. The State of Bihar & Ors.), wherein it was held that the petitioner therein was holding the rank of Sub-Inspector and that the disciplinary authority in his case was the Deputy Inspector General of Police / Inspector General of Police, and, therefore, the charge-memo ought to have been issued by the said authority. However, in that case, the charge-memo had been issued by the Superintendent of Police. Learned counsel submits that in view of the ratio laid down in the aforesaid judgment, the charge-memo and the consequential action taken against the present petitioner are liable to be set aside.

8. Learned counsel for the petitioner further submits that while passing the impugned order, there has been a gross



violation of Rules 18(2) and 18(3) of the CCA Rules, 2005. According to him, where the disciplinary authority disagrees with the findings of the Enquiry Officer on any article of charge, it is mandatory for the disciplinary authority to record reasons for such disagreement and to give the delinquent employee an opportunity to respond before recording its own findings, if the evidence on record is considered sufficient for the purpose.

9. On the other hand, learned counsel for the State submits that the impugned orders are sustainable in the eyes of law. It is contended that members of the police force are primarily governed by the Bihar Police Manual, and although the CCA Rules, 2005 are applicable, the disciplinary proceedings are to be conducted in harmony with the provisions of the Bihar Police Manual. He further submits that Appendix-84 of the Bihar Police Manual Volume 3, read with Rule 825 Volume 1, clearly lays down the competent authorities for awarding major and minor punishments. According to him, the Superintendent of Police is the competent authority in respect of an Assistant Sub Inspector/ Sub-Inspector of Police for passing orders relating to suspension as well as major and minor punishments, except compulsory retirement, removal, or dismissal.



10. Learned counsel for the State further submits that the disciplinary authority is legally empowered to differ from the findings of the Enquiry Officer, provided reasons are assigned for such disagreement. In the present case, reasons have been recorded in the impugned order itself, and thereafter the punishment has been imposed. Hence, according to him, the writ petition deserves to be dismissed.

11. Upon hearing the parties and perusing the records, this Court finds that two issues arise for consideration:

(i) Whether the Superintendent of Police is competent to pass the final order of punishment in respect of a Sub-Inspector of Police; and

(ii) Whether the impugned order suffers from violation of Rule 18(2) of the CCA Rules, 2005.

12. For adjudication of the first issue, it is necessary to examine the statutory framework governing disciplinary proceedings against police personnel. The Bihar Police Manual is the primary and governing law for police officials and staffs. Chapter-25 (Rules 824 to 854) deals comprehensively with departmental proceedings. Corresponding to Rules 824 and 829 of Bihar Police Manual Volume-1, Appendix-84, as explained in Volume-III of the Bihar Police Manual, prescribes a tabular



chart indicating the competent authorities empowered to impose various punishments. The said tabular chart is extracted as under :-

APPENDIX 84. LIST OF COMPETENT AUTHORITY TO PASS ORDERS FOR PUNISHMENT AND SUSPENSION TO APPOINTED OFFICERS/ EMPLOYEES. [Rule 815 (1)]						
Police cadres.	Compulsory retirement or removal or Dismissal.	Suspension.	Reduction in Rank.	Other major punishment.	Minor punishment.	
1	2	3	4	5	6	7
Constable ..	..	Superintendent	Superintendent	Superintendent	Superintendent	Superintendent
Lower Rank, Rank and Headclerk ..	..	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..
Assistant-Sub-Inspector ..	..	Dy. I.G. ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..
Sub-Inspector ..	..	Dy. I.G. ..	Ditto ..	Ditto ..	Ditto ..	Ditto ..
Inspector ..	..	I.G. ..	Dy. I.G. ..	Dy. I.G. ..	Dy. I.G. ..	Dy. I.G. ..
Ministerial Staff and their Higher Ranks.						
Lower/Upper Division Clerk ..	..	Dy. I.G. ..	S. P. ..	S. P. ..	S. P. ..	S. P. ..
Ministerial in joint cadre of I.O./I.G. ..	..	I.G. ..	Dy. I.G. ..	Dy. I.G. ..	Dy. I.G. ..	A. I.G. ..
Station Officer ..	..	Inspector General.	Dy. I.G. ..	Dy. I.G. ..	Dy. I.G. ..	A. I.G. ..
Registrar/Station Officer ..	..	Government ..	Inspector General.	I.G. ..	I.G. ..	I.G. ..
Experts (P. P. D.J. Police Lab, Photo Bureau).						
Expert ..	..	Dy. I.G. ..	Dy. I.G. ..	Dy. I.G. ..	Dy. I.G. ..	S. P. ..
Judicial Reporter ..	..	Dy. I.G. ..	S. P. ..	Dy. I.G. ..	Dy. I.G. ..	S. P. ..
Senior Reporter ..	..	Dy. I.G. ..	Dy. I.G. ..	Dy. I.G. ..	Dy. I.G. ..	S. P. ..
Statistical Cadre.						
Statistical Assistant ..	..	Dy. I.G. ..	S. P. ..	Dy. I.G. ..	Dy. I.G. ..	S. P. ..
Statistical Compiler ..	..	Dy. I.G. ..	S. P. ..	S. P. ..	S. P. ..	S. P. ..

12.1 Upon perusal of the said tabular chart clearly indicates that the Superintendent of Police is competent to pass order upon A.S.I./S.I. in cases of suspension, reduction in rank, other major punishments, and minor punishments, except compulsory retirement, removal, or dismissal.

13. The applicability of the CCA Rules, 2005 has also been recognised under Rule 824-A of the Bihar Police Manual,



read with Rule 32 of the CCA Rules, 2005. So far as the judgment in *Vijay Kumar Singh (supra)* is concerned, this Court finds that the relevant provisions of the Bihar Police Manual, particularly Appendix-84 of Volume-3, were not placed for consideration before the Co-ordinate Bench, nor was the said aspect examined. Therefore, this Court is of the considered view that the said judgment was rendered *per incuriam* and is not applicable to the facts of the present case.

13.1 Accordingly, the first issue is answered by holding that the Superintendent of Police is competent to pass orders in respect of A.S.I./S.I. for suspension, reduction in rank, other major punishments, and minor punishments, except compulsory retirement, removal, or dismissal.

14. The second issue relates to the procedure adopted by the disciplinary authority while differing from the findings of the Enquiry Officer. Rule 18(2) and Rule 18(3) of the CCA Rules, 2005, as relied upon by learned counsel for the petitioner, mandate that where the disciplinary authority disagrees with the findings of the Enquiry Officer, it must record reasons for such disagreement and afford an opportunity to the delinquent employee to represent against the proposed findings. Rule 18(2) and Rule 18(3) of the said rule read as under :-



“18(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.”

15. From a conjoint reading of Rules 17(23), 18(2), and 18(3) of the CCA Rules, 2005, it is evident that the disciplinary authority is empowered to record its own findings after assigning reasons for disagreement. In the present case, this Court finds that the Superintendent of Police has indeed assigned reasons for disagreeing with the findings of the Enquiry Officer, and the same appear to be acceptable.

16. However, this Court also finds that no second show-cause notice was issued to the petitioner before imposition of punishment. The non-issuance of a second show-cause notice amounts to violation of the mandatory procedural requirement and principles of natural justice. On this limited ground alone, the disciplinary proceeding stands vitiated.



17. In view of the aforesaid discussion, the order dated 21.01.2014, contained in Memo No. 221/Ra.Ka., issued by the Superintendent of Police, Katihar (Annexure-3), and the order dated 24.09.2021, contained in Memo No. 1201/Sh.Pra., issued by the Inspector General of Police, Purnea Range, Purnea (Annexure-6), are hereby set aside.

18. However, liberty is granted to the disciplinary authority to proceed afresh from the stage of issuance of second show-cause notice, afford due opportunity of hearing to the petitioner, and thereafter pass a reasoned final order in accordance with law.

19. All such exercise shall be completed within a period of 60 (sixty) days from the date of receipt/production of a copy of this order.

20. With the aforesaid observations and directions, the present writ petition stands disposed of.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27/01/2026
Transmission Date	NA

