

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2016 of 2023

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Raju Kumar Jha @ Raju Jha Son of Kailash Jha Resident of Mohalla-Kumhrar, D, Shanti Market, Teacher Colony, P.O.- Bahadurpur Housing Colony, P.S.- Agamkuan, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Additional Director General of Police, (Bazette, Appeal and Welfare), Bihar, Patna.
4. The D.I.G. of Police, Shahabad Range, Dehri-On-Sone.
5. The S.P., Kaimur at Bhabhua.
6. The S.P., Rohtas.
7. The Sub-Divisional Police Officer, Mohania, Kaimur (Bhabua).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh, Sr. Advocate
	:	Mr. Ramakant Singh, Advocate
	:	Ms. Sandhya Kumari, Advocate
For the Respondent/s	:	Mr. Manish Kumar, GP-4
	:	Mr. Manoj Kumar, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
CAV JUDGMENT

Date : 12-02-2026

Heard the parties.

2. The present writ petition has been filed for the following reliefs:-

“for issuance of appropriate writ, order or direction to set aside the order of dismissal dated 31.07.2021 (Annexure-7) passed by S.P., Kaimur and order of dismissal dated 24.08.2021 (Annexure-8) passed by S.P.,



Rohtas and order of D.I.G. of Police, Shahabad Range, Dehri-on-Sone dated 24.12.2021 (Annexure-10) by which appeal of the petitioner has been rejected and order of Director General of Police, Bihar, Patna dated 29.08.2022 (Annexure-12) by which memorial of the petitioner has been rejected and for grant of all consequential benefits.”

3. At the outset, the learned senior counsel for the petitioner submits that the petitioner was appointed as a Constable in the district of Kaimur on 06.08.2013 and he was working to the satisfaction of the authorities concerned. No complaint whatsoever was made against the petitioner. All of a sudden, a complaint was made against the petitioner and sargeant major Santosh Kumar Ojha for managing posting after taking money and for cutting down and transporting *Seesam* tree from the Police Line to Saw Mill for personal benefits. Accordingly, Memo of Charge was served upon the petitioner wherein altogether five charges were levelled. The charge was to the effect that the petitioner is taking money in lieu of choice posting from others and for cutting *Seesam* tree from the Police Line without any authority for his personal gain. On the basis of



the above-mentioned charges, departmental proceeding was initiated against the petitioner and he was directed to file his show cause reply. The petitioner submitted his show-cause reply wherein he denied all the charges levelled against him, with request to exonerate the petitioner of the charges levelled against him. The Presenting Officer and the Enquiry Officer were appointed and the Enquiry Officer proceeded to enquire on all the five charges levelled against the petitioner.

4. It has been submitted by the learned senior counsel for the petitioner that after examination of the prosecution witnesses, the petitioner submitted his last show cause reply before the Enquiry Officer, wherein he denied all the charges levelled against him. The Enquiry Officer after conducting the enquiry, including taking evidences of different prosecution witnesses, giving an opportunity to the petitioner to cross-examine the prosecution witnesses, submitted his enquiry report before the disciplinary authority on 31.03.2021, wherein he came to the conclusion that all the charges levelled against the petitioner have been found to be proved. The disciplinary authority issued second show cause notice to the petitioner with a direction to submit his reply within ten days. In compliance thereof, the petitioner submitted his show cause reply, through



proper channel, wherein he denied all the charges levelled against him. The disciplinary authority vide his impugned order contained in Memo No. 2096 dated 31.07.2021, without even considering the show cause reply submitted by the petitioner, in a mechanical manner found the same to be unsatisfactory and proceeded to award punishment of dismissal from service upon the petitioner w.e.f. 30.07.2021 and further directed that during the period of suspension i.e. 25.02.2019 to 28.03.2019, the petitioner will not be entitled for any further benefit, apart from whatever given to him.

5. It has further been contended by the learned senior counsel for the petitioner that since during pendency of the departmental proceeding, the petitioner was transferred from Kaimur (Bhabua) to Rohtas, therefore, vide Memo No. 4456 dated 24.08.2021, the Superintendent of Police, Rohtas passed the same order i.e. dismissal of the petitioner from service, which was earlier passed by the Superintendent of Police, Kaimur (Bhabua) vide Memo No. 2096 dated 31.07.2021.

6. Learned senior counsel for the petitioner further submits that the petitioner preferred statutory appeal before the D.I.G., Shahabad Range, Dehri-on-Sone against the order of dismissal, on 16.09.2021, but the D.I.G., Shahabad Range,



Dehri-on-Sone vide Memo No. 3290 dated 24.12.2021, without considering the grounds taken in the memo of appeal, proceeded to confirm the order of the disciplinary authority and rejected the appeal of the petitioner. Being aggrieved with the order dated 24.12.2021 passed by the Appellate Authority, the petitioner preferred Memorial before the Additional Director General of Police (Budget, Appeal and Welfare), Bihar, Patna on 02.04.2022, but again the Director General of Police, Bihar, Patna, without considering the grounds raised in the Memorial, proceeded to confirm the order passed by the Disciplinary Authority and the Appellate Authority, rejected the Memorial preferred by the petitioner vide letter no. P-3/13-07-19/2021/513 dated 29.08.2022.

7. It has further been submitted by the learned Senior counsel for the petitioner that although the petitioner submitted a request before the Enquiry Officer to bring defence witnesses, but the same was not allowed by the Enquiry Officer. Further, the alleged call recording between the petitioner and Chintu Kumar Singh was not sent to F.S.L. for testing its genuineness, so that it can be proved that the voice of the petitioner was there in the C.D., even the basic principles of Article 311(2) of the Constitution of India has not been



followed.

8. A counter affidavit has been filed on behalf of respondent no.6 wherein no reply has been given to the specific averments made by the petitioner in paragraph no.16 of the writ petition, pointing out the deficiencies in the enquiry report as well as the orders passed by the authorities concerned.

9. A counter affidavit has also been filed on behalf of the respondent no.5 wherein it has been submitted that charges levelled against the petitioner were found to be grave/serious in nature, as such he was put under suspension and departmental proceeding was initiated against him. The memo of charge along with list of documents and witnesses was supplied to the petitioner. A first information report was also lodged against the petitioner bearing Bhabua P.S. Case No. 116 of 2019 dated 09.03.2019 for the offences punishable under Sections 408/109 of the Indian Penal Code and Sections 33/42 of the Forest Act. Show cause notices were issued to the petitioner and opportunity was given to the petitioner to submit his reply. The reply submitted by the petitioner on 11.03.2019 was found to be not satisfactory. The Enquiry Officer proceeded with the departmental proceeding wherein the petitioner appeared and the witnesses were examined/cross-examined,



thereafter petitioner submitted his written submission before the Enquiry Officer wherein the petitioner submitted that the departmental proceeding be kept in abeyance, since a criminal case on the same set of charges is also pending against the petitioner. The request of the petitioner was rejected on the basis of settled proposition of law that both the proceedings can continue simultaneously. The Enquiry Officer on the basis of examination of witnesses during course of enquiry and on the basis of materials available on record submitted his enquiry report with the finding that the charges levelled against the petitioner have been found to be proved and agreeing with opinion of the Enquiry Officer, the Disciplinary Authority issued second show cause notice to the petitioner against the proposed punishment. The petitioner submitted his reply to the show cause before the disciplinary authority, who after considering the materials available on record and the nature of charges against the petitioner, proceeded to dismiss the petitioner from service vide impugned order contained in Memo No. 2096 dated 31.07.2021. The petitioner preferred service appeal before the D.I.G., Shahabad Range, upon which the D.I.G., Shahabad Range after considering the materials available on record including the enquiry report and the statement of witnesses



dismissed the service appeal of the petitioner on 24.12.2021. The petitioner preferred a Memorial before the competent authority and finally the same was dismissed vide order dated 25.08.2022 by the Director General of Police, Bihar, Patna after considering the entire materials available on record, with a finding that the petitioner failed to produce any supporting facts by which the charges can be found to be not proved. There are serious charges of corruption against the petitioner and the same has been proved in the departmental proceeding and no allegation of violation of natural justice or the procedure prescribed under Bihar Government Servants (CCA) Rules, 2005 has been levelled by the petitioner.

10. The learned counsel for the State has relied on judgment of the Hon'ble Supreme Court of India in the case of State of *Andhra Pradesh & Ors. Versus S. Sree Rama Rao* wherein it has been held as under:-

"7. ... The High Court is not constituted in a proceeding under Article 226 of the Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and



according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence...."

11. The learned counsel for the State further relies on a judgment of the Hon'ble Supreme Court in the case of **The State of Karnataka & anr Versus N. Gangaraj**, passed in **Civil Appeal No.8071 of 2014** wherein the Hon'ble Supreme Court has held as under:-

"The disciplinary authority agreed with the findings of the enquiry officer and had passed an order of punishment. An appeal before the State Government was also dismissed. Once the evidence has been accepted by the departmental authority, in exercise of power of judicial review, the Tribunal or the High Court could not



interfere with the findings of facts recorded by appreciating evidence as if the Courts are the Appellate Authority. We may notice that the said judgment has not noticed larger bench judgments in S. Sree Rama Rao and B.C. Chaturvedi as mentioned above. Therefore, the orders passed by the Tribunal and the High Court suffer from patent illegality and thus cannot be sustained in law. Accordingly, appeal is allowed and orders passed by the Tribunal and the High Court are set aside and the order of punishment imposed is restored."

12. A rejoinder to the counter affidavit has been filed on behalf of the petitioner wherein a specific stand has been taken that although in paragraph no.16 of the writ application, the petitioner has taken some specific grounds/pleadings while assailing the impugned proceedings as well as the impugned orders, but in none of the counter affidavits, those grounds/pleadings have been controverted by the respondents, though some grounds/pleadings are related with the factual aspect of the case, therefore, the same can be treated as admitted facts/pleadings in between the parties.



13. It has further been contended in the rejoinder affidavit that for proving the charge of taking money in lieu of giving choice posting by the petitioner, only C.D. of conversation between one Chintu Kumar Singh with the petitioner has been relied upon by the Enquiry Officer, but the same is not an admissible evidence in law. No witness has been examined by the prosecution to prove the fact that the same has been done after making payment of money/bribe to the petitioner and in absence of the such documentary evidences and/or oral evidence, such charges cannot be said to be proved against the petitioner. Further, so far the charges with regard to cutting of *Seesam* Tree/Wood and sending the same to the Saw Mill from Police Line is concerned, the same cannot be proved in absence of the owner of the Saw Mill, namely, Imteyaz, who was not examined in the enquiry proceeding, although he was one of the competent and vital witnesses to substantiate such charge.

14. It has further been contended by the petitioner that although other similarly situated co-delinquent, i.e. Santosh Kumar Ojha, who was also dismissed from service, but on his appeal/memorial preferred before the Additional Director General of Police, Bihar, Patna, direction was issued for



reconsidering the matter and based upon the same vide memo no. 2034 dated 30.07.2022 issued under the signature of the Superintendent of Police, Kaimur, a direction has been issued to take fresh decision on initiation of the departmental proceeding afresh, since the proceeding conducted against Shri Ojha was found to be in complete violation of Rules 17 & 18 of the Bihar Government Servants (CCA) Rules, 2005.

15. A supplementary affidavit has also been filed on behalf of the petitioner wherein the Additional Director General of Police (Budget, Appeal and Welfare), Bihar, Patna vide his letter no. 55/2022/141 dated 12.07.2022 proceeded to set aside the order of punishment of Santosh Kumar Ojha and directed the disciplinary authority to consider the show cause submitted by Shri Santosh Kumar Ojha and to take decision on initiation of departmental proceeding afresh, since the order of punishment was passed in complete violation of the provisions contained in Rules 17 & 18 of the Bihar Government Servants (CCA) Rules, 2005. Accordingly, a fresh enquiry was initiated against Shri Santosh Kumar Ojha and after detailed enquiry, the Enquiry Officer submitted his report vide Memo No. 4892 /2024 dated 11.09.2024 whereby he found the said charges to be proved against Shri Ojha. On the basis of the enquiry report submitted



by the Enquiry Officer vide memo no. 3928 dated 07.12.2014 issued under the signature of the Superintendent of Police, Kaimur found the said Shri Santosh Kumar Ojha to be guilty of the charges and proceeded to impose punishment of stoppage of two increments with cumulative effect which will be equivalent to three Black Mark and he will not be entitled for any further benefit for the period under suspension, apart from whatever has been given to him.

16. Learned Senior counsel for the petitioner submits that the enquiry report is based on in-admissible evidence and in support thereof he relies on the judgment of the Hon'ble Supreme Court of India in the case of ***Roop Singh Negi Versus the State of Punjab*** reported in ***(2009) 2 SCC 570*** wherein in paragraph nos.14 & 15, the Hon'ble Supreme Court of India has 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.

15. We have noticed hereinbefore that the only basic evidence whereupon reliance has been placed by the enquiry officer was the purported confession made by the appellant before the police. According to the appellant, he was forced to sign on the said confession, as he was tortured in the police station. The appellant being an employee of the Bank, the said confession should have been proved. Some evidence should have been brought on record to show that he had indulged in stealing the bank draft book. Admittedly,



there was no direct evidence. Even there was no indirect evidence. The tenor of the report demonstrates that the enquiry officer had made up his mind to find him guilty as otherwise he would not have proceeded on the basis that the offence was committed. in such a manner that no evidence was left."

17. The learned Senior counsel for the petitioner submits that no witness was examined on the allegation of managing posting for money and the enquiry report was based on the C.D. conversation between Chintu Kumar Singh and the petitioner, but said Chintu Kumar Singh was neither examined nor produced for cross-examination. The petitioner was never posted with the sergeant major and the C.D. was never examined by the FSL. Even the petitioner was not the custodian of Police Line or the Seesam Wood, the owner of the Saw Mill was not examined, the Seesam Wood was sent on the orders of the sergeant major (who has been awarded with lesser punishment) and the petitioner was denied opportunity to produce defence witnesses named in paragraph no. 16 (iv) and (v) of the writ petition.

18. The learned senior counsel for the petitioner relies upon a judgment of the Hon'ble Supreme Court of India in



the case of ***Lucknow Kshetriya Gramin Bank versus Rajendra Singh*** reported in ***(2013) 12 SCC 372***, wherein the Hon'ble Supreme Court of India in paragraph nos. 17, 18 & 19.5 has held as follows:-

"17. If there is a complete parity in the two sets of cases, imposing different penalties would not be appropriate as inflicting of any/higher penalty in one case would be discriminatory and would amount to infraction of the doctrine of equality enshrined in Article 14 of the Constitution of India. That is the ratio of Rajendra Yadav cases, already taken note above. On the other hand, if there is some difference, different penalty can be meted out and what should be the quantum is to be left to the appellate authority. However, such a penalty should be commensurate with the gravity of misconduct and cannot be shockingly disproportionate. As per the ratio of Obettee (P) Ltd. case even if the nature of misconduct committed by the two sets of employees is same, the conduct of one set of employees accepting the guilt and pleading for lenient view would justify lesser punishment to them than the other employees who remained adopted



the mode of denial, with the result that charges stood proved ultimately in a full-fledged enquiry conducted against them. In that event, higher penalty can be imposed upon such delinquent employees. It would follow that choosing to take a chance to contest the charges such employees thereafter cannot fall back and say that the penalty in their cases cannot be more than the penalty which is imposed upon those employees who accepted the charges at the outset by tendering unconditional apology.

18. *This, according to us, would be the harmonious reading of Obettee (P) Ltd. and Rajendra Yadav cases.*

19.5. *The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge*



but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent accepts the charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable."

19. The learned Senior counsel for the petitioner further submits that the driver constable Jaswant Singh who took the Seesam Wood to the Saw Mill was never proceeded against and no action has been taken against him. Even the Sergeant Major Santosh Kumar Ojha who was the main accused in the first information report and was subjected to departmental proceeding, but was awarded lesser punishment of withholding of two annual increments with cumulative effect which is equivalent to three black marks, whereas the petitioner whose name transpired during course of investigation in the first information report, was inflicted with punishment of dismissal from service. Finally, he submits that the impugned orders have been passed without considering the points raised by the petitioner, before the Enquiry Officer in the enquiry report, by the Disciplinary Authority in the punishment order, by the Appellate Authority in the appeal and the Designated Authority in the memorial. He relies on a judgment in the case of the ***Roop Singh Negi versus The State of Punjab*** reported in (2009) 2



SCC 570 to substantiate his claim wherein in paragraph no. 23,
the Hon'ble Supreme Court has held as follows:-

“23. Furthermore, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant. there was no reason as to why the order of discharge passed by the criminal court on the basis of selfsame evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The



inferences drawn by the enquiry officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof.”

20. The learned Senior counsel for the petitioner further relies on another judgment of the Hon’ble Supreme Court of India in the case of **Allahabad Bank & Ors. Versus Krishna Narayan Tewari** reported in **(2017) 2 SCC 308**, wherein in paragraph no.7, the Hon’ble Supreme Court of India has held as follows:-

"7. We have given our anxious consideration to the submissions at the Bar. It is true that a writ court is very slow in interfering with the findings of facts recorded by a departmental authority on the basis of evidence available on record. But it is equally true that in a case where the disciplinary authority records a finding that is unsupported by any evidence whatsoever or a finding which no reasonable person could have arrived at the writ court would be justified if not duty-bound to examine the matter and grant relief in



appropriate cases. The writ court will certainly interfere with disciplinary enquiry or the resultant orders passed by the competent authority on that basis if the enquiry itself was vitiated on account of violation of principles of natural justice, as is alleged to be the position in the present case. Non-application of mind by the enquiry officer or the disciplinary authority, non-recording of reasons in support of the conclusion arrived at by them are also grounds on which the writ courts are justified in interfering with the orders of punishment. The High Court has, in the case at hand, found all these infirmities in the order passed by the disciplinary authority and the appellate authority. The respondent's case that the enquiry was conducted without giving a fair and reasonable opportunity for leading evidence in defence has not been effectively rebutted by the appellant. More importantly the disciplinary authority does not appear to have properly appreciated the evidence nor recorded reasons in support of



his conclusion. To add insult to injury the appellate authority instead of recording its own reasons and independently appreciating the material record, simply reproduced the findings of the disciplinary authority. All told, the enquiry officer, the disciplinary authority and the appellate authority have faltered in the discharge of their duties resulting in miscarriage of justice. The High Court was in that view right in interfering with the orders passed by the disciplinary authority and the appellate authority."

21. The learned counsel for the State, on the other hand, submits that no document has been brought on record in support of the statement that the petitioner ever made any request to bring defence witnesses, before the Enquiry Officer and no such objection or request was ever made by the petitioner to test the call recording by the F.S.L. during the departmental proceeding or in any of the show cause reply submitted by him or in the appeal or memorial. It has further been submitted that so far parity with Sergeant Major Santosh Kumar Ojha is concerned, he was also dismissed from service w.e.f. 31.08.2021 but in appeal, his case was remitted for fresh consideration since



he had raised his ground that some of the witnesses who deposed against him in the departmental proceeding were earlier proceeded with departmentally at the behest of Shri Santosh Kumar Ojha. After remand, a fresh departmental proceeding was initiated against the said Shri Santosh Kumar Ojha and he has been given lesser punishment. He has further submitted that the documentary evidence were produced as well as witnesses were examined in presence of the petitioner, but he did not raise any dispute, rather he put his signature upon each and every page and has also exhibited the evidence, therefore, the writ petition is fit to be dismissed.

22. The learned counsel for the State relies on the judgment of the Hon'ble Supreme Court of India in the case of ***Airports Authority of India versus Pradip Kumar Banerjee*** passed in ***Civil Appeal No. 8414 of 2017*** wherein in paragraph nos. 32 to 34 and 37 to 38, the Hon'ble Supreme Court of India has held as follows:-

"32. It is trite law that in disciplinary proceedings, it is not necessary for the Disciplinary Authority to deal with each and every ground raised by the delinquent officer in the representation against the proposed penalty and detailed reasons are not required to be recorded in the order imposing



*punishment if he accepts the findings recorded by the Enquiry Officer. Our view stands fortified by the decision of this Court in **Boloram Bordoloi-vs.-Lakhimi Gaolia Banka**, wherein it was held:-*

"11. Further, it is well settled that if the disciplinary authority accepts the findings recorded by the enquiry officer and passes an order, no detailed reasons are required to be recorded in the order imposing punishment. The punishment is imposed based on the findings recorded in the enquiry report, as such, no further elaborate reasons are required to be given by the disciplinary authority."

33. *All that is required on the part of the Disciplinary Authority is that it should examine the evidence in the disciplinary proceedings and arrive at a reasoned conclusion that the material placed on record during the course of enquiry establishes the guilt of the delinquent employee on the principle of preponderance of probabilities. This is precisely what was done by the Disciplinary Authority and the Appellate Authority while dealing with the case of the respondent.*
34. *In our considered view, the Division Bench fell into grave error in*



substituting the standard of proof required in a criminal trial vis-a-vis the disciplinary enquiry conducted by the employer. It is a settled principle of law that the burden laid upon the prosecution in a criminal trial is to prove the case beyond reasonable doubt. However, in a disciplinary enquiry, the burden upon the department is limited and it is required to prove its case on the principle of preponderance of probabilities. In this regard, we are benefitted by the judgment of this Court in the Union of India-vs. Sardar Bahadur, wherein this Court held as follows: -

"15. ... A disciplinary proceeding is not a criminal trial. The standard proof required is that of preponderance of probability and not proof beyond reasonable doubt. If the inference that Nand Kumar was a person likely to have official dealings with the respondent was one which a reasonable person would draw from the proved facts of the case, the High Court cannot sit as a court of appeal over a decision based on it. Where there are some relevant materials which the authority has accepted and which materials may reasonably support the conclusion that the officer is guilty, it is not the



function of the High Court exercising its jurisdiction under Article 226 to review the materials and to arrive at an independent finding on the materials. If the enquiry has been properly held the question of adequacy or reliability of the evidence cannot be canvassed before the High Court."

37. *The position is, thus, settled that in an intra-court writ appeal, the Appellate Court must restrain itself and the interference into the judgment passed by the learned Single Judge is permissible only if the judgment of the learned Single Judge is perverse or suffers from an error apparent in law. However, the Division Bench, in the present case, failed to record any such finding and rather, proceeded to delve into extensive re-appreciation of evidence to overturn the judgment of the learned Single Judge.*

38. *Ongoing through the material on record, we are of the view that the Disciplinary Authority was fully justified in imposing the penalty of dismissal from service upon the respondent. The Appellate Authority too has duly applied its mind to the facts available on record while affirming the order of the Disciplinary Authority and rejecting the appeal filed by the respondent. These two orders*



have rightly been affirmed by the learned Single Judge of the High Court while dismissing the writ petition filed by the respondent. The judgment dated 29th June, 2011 rendered by the learned Single Judge is well-reasoned and unassailable."

23. The learned counsel for the State submitted that from the above-mentioned judgment, it is clear that if any lacuna happened during departmental proceeding, it cannot vitiate the entire proceeding, for the wrong committed by the delinquent. The learned State counsel further relies on an order passed by a Division Bench of this Court dated 01.04.2016 passed in L.P.A. no. 34 of 2024 with regard to testing on genuineness of electronic evidence, wherein it has been held that in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence, provided it has reasonable nexus and credibility.

24. The learned State counsel finally submits that based on the judgments referred above and the observations made by the Hon'ble Supreme Court of India in the said judgments wherein it has been held that the dismissal order is not to be interfered with on technical defects in the conduct of



the enquiry or culmination of the departmental proceeding in punishment, as in the present case also the enquiry was carried out with proper evidence and the Superintendent of Police, according to the power vested under Rule 824 (A) of the Bihar Police Manual, 1978, which is on the theorem based on delegated power rendered under the provisions of the Bihar Police Manual, 1978 read with appendix 84 thereof, fully justifying the whole procedure adopted for departmental proceeding as sacrosanct in eye of law and further Rule 16(1) of the Bihar Government Servants (CCA) Rules, 2005 read with Rule 825 of the Bihar Police Manual empowered to take action.

25. From the arguments advanced on behalf of the parties and after going through the materials available on record, I find that for the charges levelled against the petitioner, a proper departmental proceeding was initiated wherein ample opportunity was given to the petitioner and no document has been brought on record to suggest that the petitioner had made a request before the Enquiry Officer or even before the Disciplinary Authority/Appellate Authority and the authority competent to decide the Memorial, preferred by the petitioner, that he was never given any opportunity to produce any of the witnesses in his defence. After conclusion of the departmental



proceeding, the Enquiry Officer submitted his enquiry report before the Disciplinary Authority and the Disciplinary authority proceeded to pass the order of punishment whereby the petitioner has been dismissed from service for the charges levelled against him and which were found to be proved by the Enquiry Officer. Even the appeal and memorial preferred by the petitioner have been rejected, but all the orders of punishment i.e. the order passed by the Disciplinary Authority, the Appellate Authority and the order passed by the Director General of Police have not taken into consideration the grounds taken by the petitioner in his defence, since no consideration has been found to have been done in the orders impugned.

26. Further, I find from the records that the respondent authorities have proceeded to reconsider the case of one Santosh Kumar Ojha, against whom identical charges were levelled and first information report was lodged against him and on reconsideration a fresh enquiry was conducted and on the basis of fresh enquiry report, lesser punishment has been awarded to him. Therefore, in my considered opinion, the petitioner is also entitled for parity on the ground that since charges were identical in the case of the petitioner and Santosh Kumar Ojha, then the case of the petitioner is also to be



considered in the same manner in which the case of Santosh Kumar Ojha was considered.

27. Accordingly, the order impugned contained in Memo No. 2096 dated 31.07.2021, Memo No. 4456 dated 24.08.2021, Memo No. 3290 dated 24.12.2021 and letter no. P-3/13-07-19/2021/513 dated 29.08.2021 are hereby set aside.

28. The matter is remitted back to the Disciplinary Authority to reconsider the matter afresh from the stage of fresh enquiry as has been done in the case of Santosh Kumar Ojha and to pass fresh order after considering the enquiry report and the show cause reply, if any, to be submitted by the petitioner to the said enquiry report. The entire exercise must be completed within a period of four months from the date of production of a copy of the order and the Disciplinary Authority will communicate the fresh order to be passed by him to the petitioner.

29. With the aforementioned observations and directions, the present writ petition is allowed.

(Ritesh Kumar, J)

AjayMishra/-

AFR/NAFR	NAFR
CAV DATE	04.02.2026
Uploading Date	12 .02.2026
Transmission Date	NA

