

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7956 of 2021

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Ajit Kumar son of late Bachchu Rajak resident of village - Faridpur, P.S. -
Jamalpur, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Bihar, Patna.
2. Principal Secretary, Water Resources Department, Bihar, Patna.
3. Additional Secretary, Water Resources Department, Bihar, Patna.
4. Deputy Secretary, Water Resources Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Harshvardhan Shivsundaram, Advocate
For the Respondent/s : Mr. Sumant Kumar Singh, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 23-07-2026

Heard Mr. Harshvardhan Shivsundaram, learned Advocate for the petitioner and Mr. Sumant Kumar Singh, learned Advocate for the State.

2. The instant writ petition has been filed seeking quashing of the enquiry report dated 14.12.2018, whereby the charges levelled against the petitioner have been held to be proved; Notification No. 2627 dated 19.12.2019, issued by the Additional Secretary, Water Resources Department, Government of Bihar, whereby the petitioner has been dismissed from service; and the order dated 05.03.2021 contained in Memo No. 298, passed by the Deputy Secretary,



Water Resources Department, Government of Bihar, whereby the review petition preferred by the petitioner has been rejected. The petitioner has further prayed for his reinstatement in service with all consequential service benefits.

3. The petitioner was duly appointed as an Assistant Engineer in the Water Resources Department, Government of Bihar, and was initially posted as Estimating Officer in the Main Western Canal Division, Valmikinagar. Subsequently, vide order dated 21.06.2010, he was posted as Assistant Engineer in the Main Western Canal Sub-Division, Surajpura, where he continued to discharge his duties until departmental proceedings were initiated against him in relation to certain alleged irregularities.

4. While serving in the said Sub-Division, the petitioner was served with a memorandum of charges (Prapatra 'K') vide Letter No. 1185 dated 23.02.2017. The petitioner submitted his detailed explanation denying the allegations. Thereafter, a departmental proceeding was initiated, and the petitioner also filed his written statement of defence on 30.11.2018. Upon conclusion of the enquiry, the Enquiry Officer submitted his report dated 14.12.2018 holding the charges to have been proved.



5. On receipt of the enquiry report, the disciplinary authority issued a second show-cause notice, which was duly replied by the petitioner. However, being dissatisfied with the explanation furnished by him, the disciplinary authority passed the impugned order of dismissal contained in Notification No. 2627 dated 19.12.2019 under the signature of the Additional Secretary, Water Resources Department, Government of Bihar. The petitioner has assailed the said order of dismissal as well as the enquiry report dated 14.12.2018 in the present writ petition.

6. During the pendency of the writ petition, the review application preferred by the petitioner also came to be rejected vide Memo No. 298 dated 05.03.2021 issued under the signature of the Deputy Secretary, Water Resources Department, Government of Bihar. The petitioner has also challenged the said order by filing I.A. No. 1 of 2022.

7. Assailing the impugned orders, learned Advocate for the petitioner submitted that the departmental proceeding suffers from serious procedural as well as substantive infirmities from its very inception. It is contended that the memorandum of charges is vague, omnibus and bereft of specific allegations. It is further contended that a stereotyped charge memo was issued to all the engineers and employees connected with the work,



including the petitioner, without assigning any distinct role attributable to him.

8. Learned Advocate further submitted that the Technical Examination Cell of the Vigilance Department reported an irregular excess payment of Rs.24.65 crores under the carriage head, whereas the three-member Assessment Committee constituted by the Department assessed the excess payment at only Rs.8.9933624 crores. The two reports are mutually contradictory and are not founded upon any scientific or objective assessment. It is, therefore, argued that the charge memo is contrary to the mandate of Rule 17(3) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (for short 'the 2005 Rules').

9. It is next contended that the memorandum of charges neither enclosed the list of documents nor disclosed the list of witnesses through whom the charges were proposed to be proved. No oral evidence was adduced during the enquiry, and the findings have been recorded merely on the basis of documents, none of which were proved in accordance with law. Placing reliance upon the judgment of the Hon'ble Supreme Court in *Roop Singh Negi v. Punjab National Bank, (2009) 2 SCC 570*, it is submitted that mere production of documents



without proving them in accordance with law carries no evidentiary value.

10. It is further argued that the Enquiry Officer completely disregarded the mandatory requirements of Rule 17(23) of the 2005 Rules. The enquiry report neither discusses the evidence with reference to the individual charges nor records any independent reasons for holding the charges proved. The disciplinary authority also failed to notice these glaring defects and mechanically accepted the enquiry report while passing the order of dismissal.

11. Learned Advocate further submitted that several identically situated employees, who were proceeded against on identical charges arising out of the same set of allegations, had approached this Court in CWJC No. 2406 of 2018, CWJC No. 8711 of 2017 and CWJC No. 14088 of 2017, wherein the orders of dismissal were set aside and the concerned employees were reinstated in service. It is further submitted that one Anil Kumar Pandey, who was serving as a Junior Engineer in the Main Western Canal Division, Valmikinagar and was also proceeded against on identical charges, challenged his dismissal order in CWJC No. 535 of 2021. Vide judgment dated 22.04.2025, this Court allowed the writ petition, setting aside the order of



dismissal and directed grant of all consequential service benefits.

12. *Per contra*, learned Advocate for the State submitted that the petitioner's case stands on a different footing from those of the employees relied upon by him, as they were holding different posts and discharging different responsibilities. It is submitted that the petitioner was afforded full opportunity to defend himself, his written statement was duly considered, and the Enquiry Officer, upon appreciation of the materials available on record, returned a finding of guilt. Thereafter, the disciplinary authority, after issuing a second show-cause notice and considering the petitioner's reply, rightly imposed the penalty of dismissal, which was subsequently affirmed by the reviewing authority. It is, therefore, contended that no procedural irregularity or illegality has been committed warranting interference by this Court.

13. Having considered the rival submissions and upon perusal of the judgment rendered by this Court in CWJC No. **535 of 2021 [Anil Kumar Pandey v. The State of Bihar & Ors.]**, this Court finds that the case of the present petitioner is identical in material particulars to that of Anil Kumar Pandey. The issues raised, the charges levelled, the nature of evidence



relied upon and the legal contentions advanced are substantially the same. This Court, while deciding the said writ petition, had considered identical submissions and recorded findings in favour of the delinquent employee, which are as follows:

“22. In the case in hand, it is the admitted position that the order of dismissal passed by the disciplinary authority, as well as the finding of the enquiry officer, holding the petitioner guilty of the charges are based upon the report of the Technical Vigilance Cell of the department, whose member and the authors have never been examined by the enquiry officer so that the petitioner could have opportunity to cross-examine them; hence the enquiry proceeding and the report cannot stand scrutiny of the fairness, as it is not based upon the legal evidence and thus, no value in the eye of law.

23. Now coming to the order of dismissal passed by the disciplinary authority prima facie suggest that there is absolutely no discussion either in respect of evidence in support of the allegation or the submission made by the petitioner in his defence. Issuance of second show cause notice is not an empty formality, it is an opportunity given to the delinquent to point out infirmities in the enquiry conducted by the enquiry officer or the presenting officer



and/or to highlight the points/defence which could not have been considered by the enquiry officer before giving finding of the guilt. Non-consideration of the second show cause notice or by saying that it was not satisfactory or acceptable in his opinion, clearly suggest that the disciplinary authority has not applied his independent mind and only reiterated and reaffirms the report of the enquiry officer.

*24. While examining the legality of an order passed, either by the disciplinary authority or the reviewing authority, rejecting the contention of the delinquent in one line by saying that it was not satisfactory or acceptable, has been deprecated by the Court and held that it would amount to vesting completely arbitrary and uncanalized power in the authority in a given situation when the cause shown by the delinquent is difficult to deal and reject. It shall be very convenient for the authorities concerned not to discuss the matter and reject it by simply stating that it was not acceptable. [vide : **Kerns Services Private Ltd. vs. The State of Bihar & Ors : (2014) 1 PLJR 622]***

25. A disciplinary authority is under obligation to consider the entire circumstances of the case in order to decide the nature and extent of penalty to be imposed. The delinquent is entitled to the consideration of the show



cause by the disciplinary authority and the application of mind of said authority is imperative, before imposing any punishment. Thus, where no reason is assigned as to why the reply is found unsatisfactory and punishment is imposed thereupon, it only becomes apparent that there has been no application of mind by the authority for giving of reasons in support of an order which affects a persons basic need of the principle of natural justice.

26. *The afore-noted position of law has been highlighted in various cases by the Apex Court as well as this Court on number of occasion in order to remind the settled principle of law it would be apposite to encapsulate the relevant paragraphs 18 and 19 of the judgment of the Division Bench of this Court rendered in case of **The State of Bihar vs. Arun Kumar Dubey, L.P.A. No. 837 of 2023** wherein the Court has reproduced the mandate of the Apex Court as under :-*

“18. A Disciplinary Authority is under obligation to provide consideration of the entire circumstances of the case in order to decide the nature and extent of penalty to be imposed. The delinquent is entitled to the consideration of the show-cause by the Disciplinary Authority and the application of mind of said authority is imperative, before imposing any punishment. Thus, where no reason is



assigned as to why the reply is found unsatisfactory and punishment is imposed thereupon, it only becomes apparent that there has been no application of mind by the authority for giving of reasons in support of an order, which effects a person's basic need of the principles of natural justice.

19. The Hon'ble Apex Court in the case of Barium Chemical Limited v. A.J. Rana [(1972) 1 SCC 240 : AIR 1972 SC 591], while highlighting the merit of the word "Considers" has observed as follows:- "14. The words 'considers it necessary' postulate that the authority concerned has thought over the matter deliberately and with care and it has been found necessary as a result of such thinking to pass the order. The dictionary meaning of the word 'consider' is to attentively survey, examine, inspect (arch), to look attentively, to contemplate mentally, to think over, mediate on, give heed to, take note of, to think deliberately, to think oneself, to reflect, (vide shorter Oxford Dictionary). According to words and phrases-permanent Edn. Vol.8-A to 'consider' means to think with care. It is also mentioned that to 'consider' is to fix the mind upon with a view to careful examination, to ponder, study; mediate upon think or reflect with care".

27. This Court has also been informed that during the pendency of the writ petition, the petitioner came to be superannuated in the year 2022 itself and thus, in the opinion of this



Court, relegating the matter would not be in the interest of justice as a remand in the present case on finding the enquiry and proceeding to be vitiated on technical ground is to avoid prejudice to the delinquent employee and it can be a measure to cover up the negligence or laxity of the disciplinary authority in conducting a proper enquiry. The Division Bench of this Court in the case of The State of Bihar & Ors. Vs. Vikas Kumar, L.P.A. No. 446 of 2024 and further in Srikant Singh vs. The State of Bihar & Ors., L.P.A. No. 58 of 2024 have consistently recorded the finding aforementioned.

28. In view of the discussions made hereinabove and the settled proposition of law, this Court has no hesitation to hold and declare the impugned orders are wholly unsustainable and fit to be quashed; accordingly the order contained in memo no. 1654 dated 06.08.2019 as well as 1110 dated 09.09.2020 are hereby set aside. On account of setting aside the impugned orders, the petitioner shall be entitled to all the consequential benefits, which shall be paid to him preferably within a period of 12 weeks from the date of receipt/production of a copy of this order, in accordance with law.

14. It is also an admitted position that, in compliance with the aforesaid judgment, the Water Resources Department,



Government of Bihar, vide Memo No. 1154 dated 03.05.2025, reinstated Anil Kumar Pandey in service and extended to him all consequential service benefits. A copy of the said order has been brought on record as Annexure P/14 to the writ petition.

15. In view of the aforesaid facts and the principle of parity, this Court finds no justification to deny the petitioner the same relief.

16. Accordingly, the impugned Notification No. 2627 dated 19.12.2019 passed by respondent no.3, as well as the order dated 05.03.2021 contained in Memo No.298 passed by respondent no.4, are hereby set aside.

17. The petitioner shall be entitled to all consequential service benefits, including reinstatement and all other benefits, in the same manner as have been extended to other identically situated employees, including Anil Kumar Pandey.

18. The writ petition is, accordingly, allowed.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24-07-2026
Transmission Date	

