

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3990 of 2024

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Brajesh Kumar Vikal S/o R.K. Mishra, Resident of Mahesh Nagar, Road No. 02, Patliputra, Kehsri Nagar, Patna, P.O. and P.S.-Patliputra, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Information and Public Relation Department, Government of Bihar, Patna.
2. The Director, Information and Public Relation Department, Government of Bihar, Patna.
3. The Accountant General, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Sanjeev Kr. Mishra, Sr. Adv. Mr.Sourav Suman, Adv. Ms.Pragati Patra, Adv.
For the Respondent/s	:	Mr.Nadim Sheraj, GP5 Mr.Shailesh Kumar, AC to GP5 Dr. Anand Kumar, Adv. Ms. Vijayta Kumari, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 12-02-2026

Heard Mr. Sanjeev Kr. Mishra, Learned Senior
Counsel with Mr. Sourav Suman, Advocate for the petitioner
and Learned Counsel for the State.

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

*(i) To issue appropriate writ(s)/ order(s)/
direction(s) in the nature of Certiorari setting aside the
entire departmental proceeding initiated vide Memo No.
252 dated 23.11.2021 (as contained Annexure- P/6) against
the petitioner as the same is perverse and based on no
evidence.*

(ii) To issue appropriate writ(s)/ order(s)/



direction(s) in the nature of Certiorari quashing and setting aside the order dated 23.09.2022 passed vide letter no. 1291 (as contained in Annexure- P/19) whereby, punishment of withholding of two increments with non-cumulative effect has been imposed on the petitioner and the punishment order passed vide letter no. 1273 dated 25.08.2023 rejecting the Review application filed the petitioner without application of mind in a mechanical manner. (Annexure- P/21)

(iii) To issue an appropriate writ/order/ direction in the nature of Mandamus directing the Respondent Authorities to pay all consequential benefits to the petitioner including arrears of salary after taking into consideration all the promotions, increments and pay revisions applicable to the petitioner along with interest thereupon.

3. Learned Senior counsel for the petitioner submits that the petitioner was appointed as Bihar Information Officer in the year 2009 and discharging his duty to the best of his abilities and to the satisfaction of all his superiors. He further submits that this matter is relating to the year 2016-17, while the petitioner was then posted as In-charge Assistant Director (Advertisement Release) Head Quarter, Information and Public Relation Department, Patna. He further submits that relating to the work done in 2016-17, explanation was sought from the petitioner on 09.01.2018, in response thereof, the petitioner replied on 18.01.2018, requesting them to provide the relevant documents and again on 10.03.2018, he has also submitted other



relevant documents in support of his innocence. He further submits that on 26.04.2018 vide letter No.363, the petitioner had submitted his detail representation to the concerned authority.

4. Learned Senior counsel further submits that the matter was relating to the advertisement on the occasion of Independence day of the year 2016-17. He further submits that every year, the advertisement used to come from the Government on the occasion of Independence day and a design was prepared by the then empanel agency and direction was made by the High Officials and after verbal approval, publication of the said advertisement was made. He further submits that publication was given in 39 newspapers/magazines including approved as well as non-approved. He further submits that after courts' approval, design was made by the High Officials dated 13.08.2016 for publication through Whatsapp, but due to Holiday on 13.08.2016 (Saturday) and 14.08.2016 (Sunday) and 15.08.2016 (Monday), High Officials were conveyed about publication and expenses incurred on the same and guidance was obtained through Telephone and Whatsapp in the interest of work as it is necessary to publish it on 15.08.2016. In result, the said advertisement was timely published on 15.08.2016, and object of the advertisement was



fulfilled.

5. Learned Senior counsel further submits that on 17.08.2016, file was presented by the office for the *post-facto* approval from the competent authority. It was forwarded to the Director on 18.08.2016 for *post-facto* identical approval and upon approval at the level of the Director, it was forwarded to the Principal Secretary, but on 03.07.2019, the Information and Public Relation Department, Government of Bihar, issued a letter to submit explanation within one week. Subsequently, the said department dated 23.11.2021, initiated the departmental proceeding under Rule 14 & 17 of the Bihar CCA Rules, 2005 after a lapse of about two and a half years along with the *Prapatra-Ka* has been issued. He further submits that the said *Prapatra-Ka* is defective one as name of witnesses were not entered.

6. Learned Senior counsel further submits that the petitioner has filed his representation before the Secretary, Information and Public Relation Department, Government of Bihar on 01.12.2021 that due process has not been followed for initiation of the departmental proceeding. Upon initiation of the departmental proceeding, the matter was referred before the Inquiry Officer where the petitioner appeared and in the Inquiry



report, he has been held guilty. Subsequently, a show-cause notice was issued against him. The petitioner had responded and filed his reply to the second show-cause in which he has taken categorical defence by way of attaching a Circular/ Resolution of the Government *i.e.*, second show-cause (Annexure-P/18) Resolution No.3887 dated 19.06.2008 in which it was indicated that the delay of placing a file to next person, shall not be more than 3 days. He further submits that 13.08.2016 (Saturday), 14.08.2016 (Sunday) and 15.08.2016 (Monday) were holidays and petitioner performed his work diligently even on holiday, but 16.08.2016 is the opening day in which he has placed his file to the superior *i.e.*, before his Director on 17.08.2016 and before appropriate authority, this file was placed on 19.08.2016. Therefore, the said allegation that the file was not placed for post-facto sanction for three days, is wrong.

7. Learned Senior counsel further submits that the final order is Annexure-P/19, contained in Memo No.205 dated 23.09.2022, by which imposition of punishment of two increments with non-cumulative effect has been imposed upon him. He further submits that admittedly, the punishment is minor in nature and imposing minor punishment has been guided under Rule 19 of the CCA Rules, 2005. He categorically



mentioned that under Rule 9(1)(d) of the CCA, Rules, 2005, it is the legislative direction that at the time of passing order for imposing minor penalty recording a finding on each imputation of misconduct and misbehavior has to be made. Here in the present case, in response of his representation, only one line observation has come in the final order *i.e.*, “Delinquent Officer has not submitted any new fact” and thereafter, punishment has been imposed. He further submits that since the order has not been passed in accordance with law and in gross violation of Rule 19(1)(d) of CCA Rules, 2005, therefore, the said orders passed by the authority are fit to be set aside.

8. Learned Senior counsel further submits that when the original order itself is bad in law, therefore, the subsequent appellate order is also bad in law because this aspect has not been taken into consideration. Another aspect on which learned senior counsel put his emphasis that the matter is of the year 2015-16, charge-memo was framed in the year 2021, punishment has been concluded in the year 2022 in appeal and in the writ petition, final hearing is going in 2026. He further submits that due to long pendency of the case, the petitioner has already suffered a lot and his entire career has been disturbed and having long consequences in his career particularly for not



his fault and only due to ignorance of the Circular of the Government, which he has attached with his show-cause about which the Disciplinary Authority has said only one line statement that no new fact has come. He further submits that any Government Officer is bound by the Circular/ Resolution of the Government. Here in the present case, the own Circular has been completely ignored, therefore, inspite of remanding the matter, the litigation may be ended.

9. In conclusion, Senior counsel submits that the writ petition may be allowed and benefits, which was stopped in pursuant to the punishment order, be directed to be granted within a fixed period of time.

10. Learned counsel for the respondents vehemently opposes the argument on behalf of the petitioner and submits that there is no defect in the charge-memo. It is a case in which there is no need of witness and it is due to this reason, in the witness column, zero has been shown. He further submits that the violation of law is a part of the departmental proceeding, and therefore, there is no need of any interference in the same.

11. Counsel further submits that the delinquent petitioner had participated in the inquiry and due opportunity was granted to him and a reasoned order has been passed



against him. He further submits that the Disciplinary Authority prior to passing the final order, has granted liberty to file second show-cause, which he has filed and upon considering it, specific finding has come that no new material has been placed by him, and therefore, there is no defect in the final order and not only original order, appellate order is also in accordance with law.

12. Counsel further submits that in case, this Hon'ble Court reaches on the conclusion that there is violation of Rule 19(1)(d) of the CCA Rules, 2005, then in that case, the respondent authorities may be directed to pass a fresh order on the same. With this argument, he submits that the writ petition may either be dismissed or alternatively, a direction to the respondent authorities to pass a fresh order be made.

13. In the light of the submissions made by the parties, this Court upon consideration of the final order, it is relevant to quote the conclusive part of the order dated 23.09.2022 (annexure-P/19) which states as follows:- प्राप्त प्रतिवेदन प्रति पत्रांक प्रकृति प्रभाव प्राधिकार वृद्धि प्रस्ताव सम्प्रति प्रभारी ब्रजेश

"जाँच पदाधिकारी से प्राप्त जाँच प्रतिवेदन की प्रति विभागीय पत्रांक 919, दिनांक- 20.07.2022 के द्वारा आरोपी पदाधिकारी को उपलब्ध कराते हुए कारण पृच्छा की गई। आरोपी पदाधिकारी से कारण पृच्छा का जवाब दिनांक-08.08.2022 को विभाग में प्राप्त हुआ। प्राप्त जवाब में आरोपी पदाधिकारी द्वारा कोई नया तथ्य शामिल नहीं किया गया।

अतः आरोप की प्रकृति, संचालन पदाधिकारी से प्राप्त



जाँच प्रतिवेदन तथा आरोपी पदाधिकारी द्वारा समर्पित जवाब के समीक्षोपरान्त श्री ब्रजेश कुमार विकल, तत्कालीन प्रभारी सहायक निदेशक (विज्ञापन निर्गम) सम्प्रति सहायक निदेशक, सूचना एवं जन सम्पर्क विभाग, बिहार, पटना को बिहार सरकारी सेवक (वर्गीकरण, नियंत्रण एवं अपील) नियमावली, 2005 के नियम-14 के तहत निम्न दण्ड संसूचित किया जात है:-

(i) असंचयात्मक प्रभावसे दो वेतन वृद्धि पर रोक।

2. प्रस्ताव में सक्षम प्राधिकार का अनुमोदन प्राप्त है।”

14. It transpires to this Court that the imposed punishment is minor in nature. The provision for imposing minor punishment is laid down under Rule 19 of the CCA Rules, 2005, which states as follows:-

“19. Procedure for imposing minor penalties.-

(1) Subject to the provisions of sub-rule (3) of Rule 18, no order imposing on a Government Servant any of the penalties specified in clauses (i) to (v) of Rule 14 shall be made except after-

(a) informing the Government Servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in sub-rules (3) to (23) of Rule 17, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any, submitted by the Government Servant under clause (a) and the record of inquiry, if any, held under clause (b) into consideration;

(d) recording a finding on each imputation of misconduct or misbehaviour; and



(e) consulting the Commission where such consultation is necessary.

(2) The record of the proceedings in such cases shall include-

(i) a copy of the intimation to the Government Servant of the proposal to take action against him;

(ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him;

(iii) his representation if any;

(iv) the evidence produced during the inquiry;

(v) the advice of the Commission, if any;

(vi) the findings of each imputation of misconduct or misbehaviour; and

(vii) the orders on the case together with the reasons therefor.”

15. It is also true that the order of minor punishment may be passed even if the departmental proceeding continued in the light of Rule 17 of the CCA Rules, 2005. But at the stage of Rule 18(3) of the CCA Rules, 2005, the Disciplinary Authority may switch over upon imposing minor penalty, which may be imposed even after issuance of a proposal to take action against delinquent with the imputations of misconduct or misbehavior on which it is proposed to be taken. But it shall only after giving him reasonable opportunity of making such representation and in case, the representation submitted by the Government servant, the disciplinary authority has to record a finding on each imputation of misconduct or misbehavior and then pass final order as per Rule 19(1)(d) of the CCA Rules, 2005.



16. It transpires to this Court that a word 'representation' used in Rule 19(1)(c) of the CCA, Rules, 2005 is nothing, but the second show-cause. It also transpires that there is complete non-consideration of the second show-cause in the present order and in this way, violation of Rules 19(1)(d) of the CCA Rules, 2005 has been made. In the second show-cause also, the Circular/resolution of the Government is attached which indicates that there are three days time for placing the file to the next level. Here in the present case, the work has to be done on 15.08.2016 and on 13.08.2016, 14.08.2016 & 15.08.2016, the office was closed and upon taking approval on *Whatsapp*, work has been done well within time by the petitioner. Upon opening, he supposed to take the *post-facto* approval which is presented to file for *post-facto* approval to immediate superior on 17.08.2016 before the competent authority and this file has seen on 18.08.2016 i.e., well within three days in the light of Circular/Resolution due to the closing of the office, but this aspect has not been considered anywhere either at inquiry level or at disciplinary level or at appellate level.

17. This Court is also of the view that, for the purpose of counting days, the law relating to the interpretation of



statutes, particularly mentioned in Article 367 of the Constitution of India has to be taken care of. As General Clauses Act, 1897 is the law of interpretation according to the Constitution of India whose Section 10 clearly lays down the methodology for the computation of days.

18. It transpires to this Court that in the final order, there is no whisper of the said Circular, which is annexure of second show-cause, instead thereof, only one line statement has come that no new fact has been placed.

19. This Court is of the view that even if old fact has been placed before the Disciplinary Authority in the form of second show-cause, he ought to consider and take decision on this matter, due to the reason that it is not the fact rather law of the land also. Here in the present case, this Court is of the firm view that law of the land is very clear that time for placing the file from one stage to another is atleast three days, therefore, this Court held that there is no wrong done by the petitioner. This Court is taking this decision only due to the reason that the wrong alleged to be done in the year 2015-16 and then, it is 2026 for about 10-11 years, this petitioner has suffered unnecessarily. In this view of the matter, this Court decides that instead of remanding this matter again before the respondent



authorities, the order dated 23.09.2022 passed vide letter No.1291 (Annexure-P/19) and the order dated 25.08.2023 passed vide letter No.1273 (Annexure-21) are hereby set aside and hence, the present writ petition is hereby allowed.

20. The Respondent-State through its Principal Secretary, Information and Public Relation Department, Government of Bihar, Patna (respondent No.1) is hereby directed to take decision with regard to removing all shadow upon petitioner’s service/ career within 3 months from the date of production of the order.

21. With the aforesaid directions and observations, the present writ application stands allowed.

(Dr. Anshuman, J)

Prakashmani/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.02.2026
Transmission Date	N/A

