

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4475 of 2025

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Shambhu Shankar Thakur, Son of Late Parmanand Thakur Resident of 15
BSIDC Colony, Rameshwar Dayal Path, Boring Road, P.S.-S.K. Puri, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Addl. Chief Secretary Home (Police)
Department, Govt. of Bihar, Patna.
2. The Deputy Secretary, Home (Police) Department, Govt. of Bihar, Patna.
3. The Director General of Police, State of Bihar, Patna.
4. The Inspector General of Police, Darbhanga Zone, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar, Advocate

For the Respondent/s : Mr. Government Pleader (24)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

C.A.V. JUDGMENT

Date : 29-07-2026

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

2. Learned counsel for the petitioner submits that
the present writ petition has been filed challenging the order
dated 13.03.2024 bearing Letter No. 2935 issued by respondent
No. 2, whereby punishment of deduction of 20% of the
petitioner's pension has been imposed, as well as the order dated
25.09.2024 whereby the review petition filed by the petitioner
has been rejected and the said punishment has been affirmed.



The petitioner has also prayed for a direction to the respondents to refund the deducted amount along with interest.

3. Learned counsel further submits that at the relevant time, the petitioner was posted as Deputy Superintendent of Police (Railway), Katihar. A memorandum of charge dated 12.01.2007 (Annexure-P/3) was issued against him under the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'the CCA Rules, 2005) containing two charges: firstly, that while posted at Katihar, he failed to take appropriate action in connection with Katihar Railway P.S. Case No. 57 of 2004 dated 14.07.2004 registered under Sections 328 and 379 of the Indian Penal Code, which allegedly reflected suspicious conduct; and secondly, that despite his transfer from Katihar to Police Headquarters, Patna vide Notification No. 8490 dated 07.08.2004, he continued to remain at Katihar and reported at the Headquarters only on 03.09.2004. It is further submitted that the petitioner complied with the transfer order within the permissible joining period prescribed under Rule 255 of the Bihar Service Code, as the transfer order did not prescribe any specific time limit for joining. After receipt of the charge memo, the petitioner submitted his explanation.



4. Learned counsel further submits that in the departmental proceeding, the Inspector General of Police, Darbhanga Zone, was appointed as the Conducting Officer, who, after considering the materials on record, found the charges levelled against the petitioner not proved and exonerated him. However, the disciplinary authority disagreed with the findings of the Conducting Officer and issued a disagreement notice dated 13.05.2011 (Annexure-P/4).

5. It is further submitted that during the pendency of the proceeding, the petitioner superannuated on 28.02.2011 and thereafter the proceeding was converted into one under Rule 43(b) of the Bihar Pension Rules. Subsequently, the disciplinary authority, vide Memo No. 9302 dated 27.12.2011 (Annexure-P/5), disagreed with the enquiry report and imposed the punishment of deduction of 20% of the petitioner's pension. Learned counsel submits that the aforesaid order was challenged by the petitioner in C.W.J.C. No. 16208 of 2012, which was allowed vide order dated 19.10.2023. This Court remanded the matter to the disciplinary authority with a direction to issue a fresh and detailed disagreement notice, assign reasons for disagreeing with the findings of the Conducting Officer, consider the defence of the petitioner, and pass a reasoned and



speaking order. It is submitted that pursuant to the said order, the Home Department issued Letter No. 16051 dated 22.12.2023 (Annexure-P/7), directing the petitioner to submit his defence along with relevant documents. The petitioner accordingly submitted his representation, but the same was rejected by the disciplinary authority vide order dated 13.03.2024 (Annexure-P/9), affirming the earlier punishment.

6. Learned counsel further submits that the principal allegation against the petitioner was his alleged failure to take action in Katihar Railway P.S. Case No. 57 of 2004, which stood disproved by the Conducting Officer. Since the disciplinary authority accepted the findings of the Conducting Officer with regard to the said charge, there remained no basis to sustain the second charge relating to alleged non-compliance of the transfer order, as the said transfer was consequential to the first allegation.

7. It is further submitted that the petitioner had not violated the transfer order, as he reported at the Police Headquarters on 03.09.2004 within the statutory joining period prescribed under Rule 255 of the Bihar Service Code. The transfer order dated 07.08.2004 did not prescribe any specific period for joining, and the petitioner had also approached this



Court challenging the transfer order, without obtaining any adverse order.

8. Learned counsel lastly submits that once the disciplinary authority accepted the findings of the Conducting Officer regarding the principal charge, continuation of the punishment of deduction of 20% pension was wholly unjustified. The impugned orders dated 13.03.2024 and 25.09.2024 are arbitrary, illegal and contrary to the findings recorded in the departmental proceeding and, therefore, deserve to be quashed.

9. Learned counsel appearing for the respondent-State submits that the departmental proceeding against the petitioner was initiated on the basis of the proposal submitted by the Police Headquarters, Bihar vide Memo No. 868/NGO dated 28.07.2006, along with the report of the Deputy Inspector General of Police, Railway, Patna and Inspector General of Police, Railway, Patna, containing the allegations and supporting documents. It is submitted that while the petitioner was posted as Deputy Superintendent of Police, Railway, Katihar, allegations were levelled against him that he failed to take appropriate action in Katihar Railway P.S. Case No. 57/2004 dated 14.07.2004 registered under Sections 328 and



379 of the Indian Penal Code, despite being informed about the alleged misconduct by the victim, thereby raising suspicion regarding his conduct. It was further alleged that despite his transfer from Katihar to Police Headquarters, Patna vide Notification No. 8490 dated 07.08.2004, he failed to comply with the transfer order within time and reported at the transferred place only on 03.09.2004.

10. Learned counsel further submits that after examination of the materials available on record, a departmental proceeding was initiated vide Resolution No. 4220 dated 15.05.2008 and a Conducting Officer was appointed. Though the Conducting Officer submitted a report holding the charges to be not proved, the Disciplinary Authority, after due consideration of the materials on record, disagreed with the findings and issued a show cause notice to the petitioner mentioning the points of disagreement. After considering the reply submitted by the petitioner, the Disciplinary Authority imposed a punishment of deduction of 20% of pension vide Resolution No. 9302 dated 27.12.2011 under Rule 43(B) of the Bihar Pension Rules. The said order was also issued after obtaining statutory advice from the Bihar Public Service Commission.



11. It is further submitted that the petitioner, instead of availing the statutory remedy of appeal/memorial under Rule 24 of the Bihar CCA Rules, 2005, approached this Hon'ble Court by filing C.W.J.C. No. 16208 of 2012. The said writ petition was disposed of with a direction to the Disciplinary Authority to reconsider the matter and pass a fresh speaking order after issuing a detailed show cause notice, particularly in case of disagreement with the findings of the Conducting Officer. Learned counsel further submits that in compliance with the said order, the petitioner was granted an opportunity to submit his defence along with relevant documents vide Letter No. 16051 dated 22.12.2023. The petitioner submitted his representation, which was duly considered by the competent authority. After considering the entire materials available on record, it was found that the petitioner, being a police officer, was bound to comply with the transfer order dated 07.08.2004. Mere filing of a writ petition against the transfer order, in absence of any order of stay, did not absolve him from complying with the said order.

12. It is further submitted that the plea of the petitioner regarding availing 30 days joining time under Rule 255 of the Bihar Service Code is misconceived. The said



provision does not permit a Government servant to unilaterally avail joining time without approval of the competent authority. The petitioner, therefore, failed to comply with the transfer order within the permissible period, and the finding recorded against him regarding non-compliance of the transfer order is justified. Learned counsel further submits that upon reconsideration of the matter in terms of the order passed in C.W.J.C. No. 16208 of 2012, the competent authority, after considering the representation of the petitioner and the materials available on record, passed a reasoned order dated 13.03.2024 bearing Memo No. 2935, maintaining the earlier punishment of deduction of 20% pension.

13. It is lastly submitted that the impugned order has been passed after following due procedure of law, providing adequate opportunity of hearing to the petitioner, and after due consideration of all relevant facts. Therefore, the writ petition is devoid of merit and is liable to be dismissed.

14. After hearing the parties and upon perusal of the record, this Court finds that the petitioner had earlier moved before this Hon'ble Court in CWJC No. 16208 of 2012 (Shambhu Shankar Thakur v. The State of Bihar & Ors.), in which, vide oral judgment dated 19.10.2023, the writ petition



was allowed, and the order has observed as follows:-

"None appears for the respondent-State. Matter is pending consideration from the year 2012.

2. In the instant petition, petitioner has prayed for the following reliefs:-

"For issuance of certiorari quashing the resolution of the Govt. of Bihar Home (Police) department dated 27.12.2011 issued under the signature of Spl. Secretary to the Government contained in memo No. 9302 dated 27.12.2011 whereby and whereunder the 20% pension of petitioner has been ordered to be deducted as punishment and further for issuance of a writ of mandamus directing respondents to pay the petitioner the amount which has been deducted as punishment with interest admissible thereon. And/or pass such other order/orders as your Lordship may deem fit and proper."

3. Petitioner was initially appointed as Sub-Inspector of police on 16.01.1972. He was granted promotion to the rank of Deputy Superintendent of Police. While working as Deputy Superintendent of Police, he was subjected to disciplinary proceedings on 12.01.2007, in framing of article of charges. Thereafter, it was proceeded on receipt of petitioner's explanation and it was not satisfied by the Disciplinary Authority. During pendency of the departmental inquiry petitioner has attained his age of superannuation and retired from service on 28.02.2011. In the result, the State Government has taken over the inquiry matter. The inquiring officer



Inspector General of Police, Darbhanga Division, Darbhanga, furnished an inquiry report to the extent that the alleged charges leveled against the petitioner were not proved. In other words, petitioner has been exonerated. On receipt of the Inquiring Officer's report Disciplinary Authority-State Government proceeded to issue show cause notice on 30.05.2011 asking the petitioner's reply. Petitioner had submitted reply on 11.07.2007, thereafter, the State Government proceeded to impose the penalty of withholding of 20% pension on permanent basis on 27.12.2011, hence, the present petition.

4. Learned counsel for the petitioner submitted that the alleged charges leveled against the petitioner were not proved in the departmental inquiry. If the disciplinary authority intends to disagree with the inquiring officer's report it was bounden duty of the disciplinary authority either to remand the matter to the inquiring officer on certain issues for which he was required to furnish reasons or in the alternative disciplinary authority is also permitted to issue a detailed show cause notice to what extent and in what manner disciplinary authority is not accepting the inquiring officer's report. If there are discrepancies in the inquiring officer's report that should be highlighted in the show cause notice in seeking petitioner's explanation.

5. The above procedure has not been complied as is evident from Annexure -5 dated 30.05.2011. On this point, petitioner has made out a case. Accordingly, the impugned punishment order dated



27.12.2011 (Annexure-7) stands set aside and the matter is remanded to the disciplinary authority to proceed afresh by giving a detailed show cause notice. If the disciplinary authority is disagreeing with the inquiring officer's report, disciplinary authority has to assign the proper reasons in respect of particular evidence or document relied by inquiring officer is contrary material information which is available on record, if he is disagreeing with such material information he is permitted to issue a detailed show cause notice, thereafter, proceed to pass a detailed speaking order. While passing detailed speaking order disciplinary authority is hereby directed to take note of each of the contention to be raised by the petitioner against afresh show cause notice to be issued by the disciplinary authority. If the disciplinary authority finds that there are no material to prove the charges leveled against the petitioner like documentary evidence or any corroborative evidence which are part and parcel of the inquiring proceedings, in that event, there is no question of disagreeing with inquiring officer's report this may also be taken note of before proceeding further. The above exercise shall be completed within a period of three months from the date of receipt of this order. The petitioner is hereby directed to co- operate in furnishing his reply to the show cause notice, if any, so also on the inquiring officer's finding.

6. With the aforesaid observations, the present writ petition stands allowed."

15. Upon perusal of the said order, it transpires to



this Court that the matter relating to the petitioner is remanded to the disciplinary authority to proceed afresh by giving a detailed show cause notice with further direction that if the disciplinary authority is disagreeing with the inquiring officer's report the he has to assign the proper reasons in respect of particular evidence or document relied by inquiring officer is contrary material information which is available on record, if he is disagreeing with such material information he is permitted to issue a detailed show cause notice, thereafter, proceed to pass a detailed speaking order.

16. After remanding the matter back vide order dated 19.10.2023, a letter dated 22.12.2023 was issued, to which the petitioner submitted his reply on 14.01.2024. Thereafter, the impugned order contained in Memo No. 2935 dated 13.03.2024 (Annexure-P/9) was passed. In the impugned order, the disciplinary authority accepted the report of the conducting officer with respect to the charges alleged in the charge-memo, but took cognizance of the fact that, despite the direction issued by the Rail Superintendent of Police, Katihar, to join at Patna on 07.08.2004, the petitioner joined with delay on 03.09.2004. With a view to proving this charge, the disciplinary authority has taken shelter under Rule 255 of the Bihar Service Code. It is



for this reason, it is necessary for this Court to refer to Rule 255 of the Bihar Service Code, which is as follows:-

“255. The joining time of a Government servant in cases involving a transfer from one station to another is subject to a maximum of 30 days. Six days are allowed for the preparation and in addition, a period to cover the actual journey calculated as follows:-

(a) A Government servant is allowed:

For the portion of the journey which would normally be performed-

By railway or aeroplane 250 miles. (400 K. meters)

By ocean steamer 200 miles. (320 K. meters)

By river steamer 80 miles. (128 K. meters)

By motor vehicles 150 miles. (240 K. meters)

In any other way 20 miles. (32 K. meters)

[Note-Except in cases of journey performed by air entitlement of joining time to a Government servant in cases where the old Head Quarters and the new Head Quarters are connected by rail should be calculated as admissible for journey by rail.]

(b) For any fractional portion of any distance prescribed in clause (a) an extra day is allowed.

(c) When part of the journey is by steamer, six days allowed for preparation may be extended to cover any period unavoidably spent in awaiting the departure of the steamer.

(d) Travel by road not exceeding five miles (8 Kilometers) to or from a railway station at the beginning or end of a journey does not count for joining



time.

(e) A Sunday does not count as a day for purpose of the calculations in this Rule, but Sundays are included in the maximum period of 30 days.”

17. From the record, it transpires that the petitioner was transferred vide Notification No. 8490 dated 07.08.2004 and joined at his new place of posting on 03.09.2004, i.e., within 30 days as provided under Rule 255 of the Bihar Service Code. Therefore, the allegation that the petitioner joined his new place of posting with an inordinate delay is not acceptable to this Court. The finding recorded by the disciplinary authority in paragraph No. 8 of the impugned order that only the allegation of delayed joining has been proved, and a deduction of 20 per cent from the petitioner's pension has been imposed by exercising the power under Rule 43(b) of the Bihar Pension Rules 1950, is also surprising to this Court.

18. For the purpose of proper appreciation, it is necessary to refer to Rule 43(b) of the Bihar Pension Rules 1950, which reads as follows:-

“43(b) The ²[Appointment authority of the post held at the time of retirement] further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period, and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government if the



pensioner is found in departmental or judicial proceeding to have been guilty of grave misconduct; or to have caused pecuniary loss to Government by misconduct or negligence, during his service including service rendered on re-employment after retirement.”

19. From the perusal of Rule 43(b) of the Bihar Pension Rules 1950, it transpires that the proceeding shall continue only in two situations if the pensioner is found in departmental or judicial proceeding to have been guilty of grave misconduct; or to have caused pecuniary loss to Government by misconduct or negligence, during his service including service rendered on re-employment after retirement.

20. Here, in the present case, none of the situations contemplated under Rule 43(b) of the Bihar Pension Rules 1950 is attracted. Therefore, this Court is of the firm view that the order directing deduction of 20 per cent pension under Rule 43(b) of the Bihar Pension Rules 1950 is bad in law.

21. Hence, for the reasons mentioned above, the impugned order contained in Memo No. 2935 dated 13.03.2024 (Annexure-9), passed by the Deputy Secretary, Home (Police) Department issued under the signature of Deputy Secretary to the Government, Government of Bihar is hereby set aside.

22. The petitioner has challenged the said order by filing a review petition, and the reviewing authority has passed



the order in a cryptic manner. A one-line finding has been recorded without assigning any reason, merely on the ground that the department, vide Memo No. 2935 dated 13.03.2024, had decided to impose the punishment, therefore, the review has been rejected. Such a finding is not permissible in judicial proceedings, as assigning reasons is the most essential element of a judicial order. Since the review order does not contain any reasons, it is for this reason the said order contained in File No. 11546 dated 25.09.2024, passed by the Deputy Secretary, Home, (Police) Department, Government of Bihar (Annexure P/11) is also hereby set aside.

23. In the result, the writ petition is allowed. Both the orders, i.e., Memo No. 2935 dated 13.03.2024 (Annexure-9), passed by the Deputy Secretary, Home (Police) Department issued under the signature of Deputy Secretary to the Government, Government of Bihar and File No. 11546 dated 25.09.2024, passed by the Deputy Secretary, Home, (Police) Department, Government of Bihar (Annexure P/11), are hereby set aside.

24. It is directed to the respondent, the Additional Chief Secretary, Home (Police) Department, Government of Bihar, to ensure payment of all the service dues of the petitioner



within a period of three months from the date of communication
of this order.

(Dr. Anshuman, J.)

Ashwini/Aman-

AFR/NAFR	
CAV DATE	06.07.2026
Uploading Date	31/07/2026
Transmission Date	NA

