

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4721 of 2022

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Vinod Roy Son of Late Bhim Roy Resident of Village- Darahpur, P.O.-
Churamanpur, P.S.- Audhyogik Churamanpur, District- Buxar (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Home Department, Govt. of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police (Prohibition), Bihar, Patna.
5. The Deputy Inspector General of Police, Railway, Bihar, Patna.
6. The Superintendent of Police, Railway at Muzaffarpur, District- Muzaffarpur, Bihar.
7. Enquiry Officer-cum-Senior Deputy Superintendent of Police, Railway Sonapur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raju Giri, Senior Advocate Mr. Harsh Vardhan, Advocate Mr. Harsh Raj, Advocate Mr. Chetan Anand, Advocate
For the State	:	Mr. Ajay Kumar (AC to GP-4)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 19-01-2026

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

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

*“I. To issue an appropriate writ /
order / direction, in the nature of
Certiorari, quashing the enquiry*



report dated 30.09.2018 submitted by the Enquiry officer-cum- Senior Superintendent of Police, Railway sonapur in departmental proceeding no. 29/17 (Rail, Muzaffarpur), as contained in Annexure – 7.

II. To issue an appropriate writ / order / direction, in the nature of Certiorari, for quashing order dated 30.10.2018 passed by the Superintendent of Police, Railway Muzaffarpur, by which the pay of the petitioner has been reduced to basic pay (grade pay) .i.e. from Grade pay of Rs. 2800/- (level-5) to Grade pay of Rs. 2000/- (level 3) for five years and the petitioner would not receive the pay of his suspension period from 3.07.2017 to 19.07.2017 except the subsistence allowance which he has been paid as contained in Annexure-10.

III. To issue an appropriate writ / order / direction, in the nature of certiorari for quashing the order dated 25.12.2021 passed by the Director General of Police, Bihar, Patna in purported exercise of power under Rule 853 A (a) of the Bihar Police Manual, 1978 (vol-1) by which the petitioner has been dismissed from



service.

IV. To issue an appropriate writ / order / direction, in the nature of mandamus commanding the respondents to reinstate the petitioner in Bihar Police Service with all consequential benefits.

V. To any other relief or reliefs for which the Petitioner is found to be entitled in the facts and circumstances of the case.”

3. Learned Senior counsel for the petitioner submits that the petitioner was appointed as a Police Constable in the Bihar Police on 01.06.1999. At the relevant period, he was posted in the Bihar Police Rail at Muzaffarpur in the year 2010. He further submits that the petitioner was made accused in Jainagar P.S. Case No. 179 of 2017, which resulted in his arrest and suspension, and finally a disciplinary order was passed following the charge and enquiry report, contained in Memo No. 2674 dated 30.10.2018 (Annexure-10). He further submits that the petitioner has not challenged the said order in appeal, but he has received a letter indicating that the higher authority has proposed his dismissal from service. He further submits that it is true that the higher authority may take such



decision in accordance with Rule 853 A (a) of the Bihar Police Manual, 1978 (hereinafter referred to as the 'Rules of 1978'), but submits that such decision, to exercise the said power, has to be made within a reasonable period of time. Senior counsel submits that what constitutes a reasonable time has been decided by this Hon'ble Court in a series of cases, particularly *vide* order dated 22.03.2024 passed in ***C.W.J.C No. 7496 of 2023 (Avinash Chandra Vs. The State of Bihar & Ors.)***, wherein, reference has been made to different cases, i.e., order dated 06.01.2021 passed in ***C.W.J.C No. 7906 of 2020 (Ananjay Singh @ Ananjay Kumar Singh Vs. The State of Bihar & Ors.)*** reported in ***2021 (1) PLJR 473***, as well as order dated 06.11.2023 passed in ***C.W.J.C No. 25445 of 2019 (Md. Giaaul Hak Vs. The State of Bihar & Ors.)***. In the said cases, it has been held that the reasonable time shall be six months, as in the case of ***Md. Giaaul Hak (supra)***, it has been decided that the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'Bihar CCA Rules 2005') shall be applicable to such category of employees, including the petitioner, who come within the purview of the Bihar Police Manual. Hence, Rule 28 of the Bihar CCA Rules 2005 is very much clear that the time prescribed for revision is only six



months.

4. In the present case, the said period exceeds three years. Therefore, for this reason, Senior counsel for the petitioner submits that the order passed by the Director General of Police, Bihar, Patna, dated 25.12.2021 is not sustainable in the eye of law and is fit to be set aside.

5. Learned counsel for the State, on the other hand, submits that the present writ petition is not maintainable, as the petitioner himself opted not to challenge the disciplinary order passed by the Disciplinary Authority, and it is well within the power of the higher authority to revise the order passed by the Disciplinary Authority under Rule 853 A (a) of the Rules of 1978. He further submits that there is no time limit mentioned in the Bihar Police Manual and only a reasonable time has been prescribed. However, what shall be the reasonable time is nowhere mentioned in the Bihar Police Manual. Therefore, according to him, the order passed by the Director General of Police, Bihar, Patna, removing the petitioner is absolutely in accordance with law and there is no need of any interference.

6. After hearing the parties, the only question which has to be considered in the present writ petition is whether the reasonable time mentioned in Rule 853 A (a) of the



Rules of 1978 prescribes any time limit, or whether it can be exercised without any limitation of time. The said provision of law states as follows:-

“Inspector-General may call for the file in any case even when no appeal lies and pass such order as he may deem fit. The Deputy Inspector-General may call-for any file but he should refer it to the Inspector- General with his recommendation for his order. The above action should be taken within a reasonable time from the date of final order in departmental proceeding.”

7. In the said provision, it has been mentioned that the action is to be taken within a reasonable time, and it is true that the term “reasonable time” has not been defined. However, it is also true that in the judgment of **Md. Giaaul Hak (supra)**, this Court has held as follows:-

“9. Upon going through Rule 824 A of Bihar Police Manual, it transpires to this court that there are broad classification of 5 types of Police personnel's which have been discussed in the said manual.

10. The first category is those persons who comes within the category of Indian Police Service against whom



disciplinary action shall be directed to be instituted according to the All India Services (Discipline and Appeal), Rules, 1969.

11. The second category is Deputy Superintendent and their equivalent ranks against whom the disciplinary action shall be taken according to Civil Services (Classification, Control and Appeal) Rules, 1930.

12. The third category is the Ministerial Officers against whom disciplinary action has directed to be taken according to Bihar Subordinate Services (Discipline and Appeal), Rules 1935.

13. The fourth category is of the members of Bihar Sashastra Police for whom indication has been made that disciplinary rule has been given in separate manual.

14. The fifth category has been divided into 2 sub categories viz, first is for those personnel's against whom action shall be taken according to Rule 824 A(b), if gazetted and second for those personnel's against whom action shall be taken according to Rule 824 A(c), if non-gazetted, unless expressly proposed otherwise for any



special person. It is made clear in Rule 32 of Bihar CCA Rules 2005 that by enactment of the said Bihar CCA Rules 2005, rules of 1930 and rules of 1935 mentioned above were repeal, meaning thereby, the Bihar CCA Rules, 2005 has adopted the rules of 1930 and 1935 both.

15. In this background, it becomes crystal clear to this Court that for the police officials whether gazetted or non-gazetted, the Bihar CCA Rules, 2005 shall be applicable to take disciplinary action against them. In this view of the matter, this Court rejects the contention of the respondent that police manual shall only apply because police manual itself indicates that disciplinary action shall run according to disciplinary rules 1930 & 1935, which are replaced by Bihar CCA Rules, 2005. After conjugal reading of Rules 824 A of Bihar Police Manual read with Rule 32 of Bihar CCA Rules, 2005, the issue about applicability of the rule in the disciplinary action against the police personnel is hereby cleared that in all types of Police personnel's in Bihar CCA Rules 2005 shall apply.”



8. When it has been decided that the Bihar CCA Rules 2005 shall apply, it is necessary to read Rule 853 A (a) of the Rules of 1978 with Rule 28 of the Bihar CCA Rules 2005. This Court deems fit to quote Rule 28 of the Bihar CCA Rules 2005, which states as follows:-

“28. Revision.

(1) Notwithstanding anything contained in these Rules,-

(i) the Government, or

(ii) the head of a department directly under the Government, in the case of a Government servant serving in a department or office, under the control of such head of a department, or

(iii) the appellate authority, or

(iv) any other authority specified in this behalf by the Government by a general or special order, and within such time as may be prescribed in such general or special order, may at any time within six months of the date of the order proposed to be revised, either on his or its own motion or otherwise call for the records of any inquiry and revise any order made under these Rules or under the Rules repealed by the Rule 32 (from which



an appeal is allowed but from which no appeal has been preferred or from which no appeal is allowed), after consultation with the Commission where such consultation is necessary, and may-

(a) confirm, modify or set aside the order, or

(b) confirm, reduce, enhance or set aside the penalty imposed by the order, or impose any penalty where no penalty has been imposed, or

(c) remit the case to the authority, making the order or to any other authority, directing such authority, to make such further inquiry as he may consider proper in the circumstances of the case, or

(d) pass such other orders as it may deem fit:

Provided that no order imposing or enhancing any penalty shall be made by any revising authority unless the Government Servant concerned has been given a reasonable opportunity of making a representation against the penalty proposed and where it is proposed to impose any of the penalties specified in clauses (vi) to (x) of Rule 14 or to enhance the



penalty imposed by the order sought to be revised to any of the penalties specified in those clauses, no such penalty shall be imposed without an inquiry in the manner laid down in Rule 17 and after giving a reasonable opportunity to the Government Servant concerned of showing cause against the penalty proposed on the evidence adduced during the inquiry and except after consultation with the Commission where such consultation is necessary:

Provided further that no power of revision shall be exercised by the head of department, unless-

(i) the authority which made the order in appeal, or

(ii) the authority to which an appeal would lie, where no appeal has been preferred, is subordinate to him.

(2) No proceeding for revision shall be commenced until after

(i) the expiry of the period of limitation for an appeal, or

(ii) the disposal of the appeal, where any such appeal has been preferred.

(3) An application for revision shall be dealt with in the same manner as if it were an appeal under these Rules.”



9. According to this Court, Rule 28 of the Bihar CCA Rules 2005 is very clear that the time limit for revision is six months, particularly in light of the order passed by the Co-ordinate Bench of this Court in the case of **Avinash Chandra (supra)**. The relevant paras 7 & 8 of the said order are quoted herein as under:-

*“7. I have heard the learned counsel for the parties and perused the materials on record. As far as the order dated 08.09.2022, passed by the Director General of Police, Bihar, Patna, enhancing the punishment inflicted vide order dated 07.10.2022, passed by the Inspector General of Police, Tirhut Range, Muzaffarpur, is concerned, firstly, this Court finds that the same has been passed after a lapse of almost one year of passing of the order of punishment dated 07.10.2021 by the disciplinary authority, hence, considering the law laid down by this Court in the cases of **Anjani Kumar Singh (supra)**, **Ananjay Singh (supra)** and **Md. Giaaul Hak (supra)**, this Court would hold that since Rule 28 of the Rules, 2005 would govern the field, the Director General of*



Police, Patna could have revised the punishment inflicted upon the petitioner by the disciplinary authority vide order dt. 07.10.2021, only within a period of six months of passing of the same, however, admittedly, in the present case, the punishment, inflicted by the disciplinary authority, has been revised by the Director General of Police, Bihar vide order dt. 8.09.2022, after almost one year, which is not permissible in the eyes of law, hence the order dt. 08.09.2022, passed by the Director General of Police, Bihar, Patna, being contrary to law is set aside.

8. Yet another aspect of the matter is that the impugned order dated 08.09.2022, passed by the Director General of Police, Bihar Patna is cryptic and an unreasoned order, which nowhere deals with the submissions made by the petitioner in his reply to the show-cause notice dated 21.06.2022 and on the contrary, in a single line, it has been stated that nothing new has been submitted by the petitioner, apart from the fact that the said order dated 08.09.2022 does not specify anywhere, the reasons which



*might have weighed in the mind of the Director General of Police, Bihar, to take a different view from the view taken by the disciplinary authority while inflicting minor punishment vide order dated 07.10.2021, so as to warrant enhancement of the punishment. Reference in this connection be had to the judgments rendered by this Court in the cases of **Sunil Kumar** (supra) and **Abha Kumari** (supra), as also to the judgment rendered by the Hon'ble Apex Court in the case of **Oryx Fisheries Pvt. Ltd.** (supra). Consequently, on the foregoing ground as well, the order dated 08.09.2022, passed by the Director General of Police, Bihar, Patna is held to be perverse, illegal and contrary to law.”*

10. This Court, on the basis of the reasoning and the relevant law, which are very clear, is of the firm view that the time limit shall be six months only. In the present case, the final decision was taken on 30.10.2018, whereas, the intimation for revision took place in the year 2020 i.e. after a lapse of two years. Therefore, the order dated 25.12.2021 contained in Letter



No. 597 passed by the Director General of Police, Bihar, Patna (Annexure-16) is hereby set aside.

11. The Superintendent of Police, Railway at Muzaffarpur (respondent No. 6) is hereby directed to calculate the arrears of the petitioner, which have arisen due to setting aside of the order of termination passed by the Director General of Police, Bihar, Patna, including his salary, and shall ensure payment of the same within three months from the date of production of a copy of this order.

12. Accordingly, with the aforesaid observation and direction, the present writ petition stands allowed.

(Dr. Anshuman, J.)

Aman Kumar/-

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

