

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4825 of 2022

=====

Sujit Kumar Jha Son of Late Dinesh Jha, Resident of Nayagaon, Police Station-Rayam, Block-Kewati, District-Darbhanga Presently Posted as Jail Superintendent, Aurangabad, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home department, Govt. of Bihar, Patna.
2. The Additional Secretary, Home Department, Govt. of Bihar, Patna.
3. The Inspector General (Prison), Bihar, Patna.
4. The Joint Secretary-Cum-Director (Prison), Bihar, Patna.
5. The Deputy Secretary-Cum-Deputy Director (Prison), Bihar, Patna.
6. The Commissioner, Purnea Division, Purnea.
7. The District Magistrate, Katihar.
8. The Superintendent of Police, Katihar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Jitendra Pd. Singh, Sr. Advocate Mr. Rajeev Kumar, Advocate Mr. Venkatesh Kaushik, Advocate
For the State	:	Mr. Nasrul Huda Khan (SC-1) Mr. Md. Harun Quareshi (AC to SC-1)

=====

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 20-01-2026

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

2. The present writ petition has been filed for the
following relief/s:-

“I. For setting aside the resolution
dated 01.11.2021 (Annexure-4)
contained in Memo No. 9262 passed



by the Joint Secretary-cum-Director (Prison) (Respondent no.4) whereby and whereunder an order of punishment for stoppage of three increment with cumulative effect has been awarded in exercise of power under Rule 14(VI) of the Bihar Govt. Servants (Classification, Control and Appeal) Rules, 2005.

II. For setting aside the resolution dated 30.12.2021 (Annexure-6) contained in Memo No. 10806 passed by the Joint Secretary-cum-Director (Prison) (Respondent No. 4), by which review preferred by the petitioner against the order of aforesaid punishment has been rejected.

III. For grant of any other relief or reliefs for which the petitioner is legally entitled in the facts and circumstances of the case.”

3. Learned Senior counsel for the petitioner submits that the petitioner while posted as Jail Superintendent, Katihar, a raid was conducted by the then District Magistrate and the Superintendent of Police, Katihar on 11.08.2018 in the Jail and some prohibited articles i.e. mobile phone, pen drive,



electronic goods, etc. were recovered, and pursuant to the said raid, a departmental proceeding was initiated against the petitioner *vide* resolution dated 11.02.2019 contained in Memo No. 1226 under the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'Bihar CCA Rules, 2005'). In the said resolution, *prapatra - Ka* was also served. Senior counsel further submits that an Enquiry Officer was appointed in the said proceeding along with a Presenting Officer, and the said Enquiry Officer submitted his report dated 30.06.2020 and reached on the conclusion that the charges alleged were not proved. Senior counsel submits that the said enquiry report was submitted to the Disciplinary Authority, who, upon disagreeing with the said findings, remitted the matter again to the same Enquiry Officer. The Enquiry Officer thereafter, submitted his enquiry report on 18.03.2021, stating that no evidence had been produced by the Presenting Officer in order to prove the charges against the petitioner and, therefore, again concluded that the charges alleged against the petitioner were not proved.

4. Learned Senior counsel for the petitioner further submits that the Disciplinary Authority, after receiving the enquiry report, issued a second show-cause notice to the



petitioner *vide* Memo No. 4068 dated 17.05.2021, expressing disagreement with the findings of the Enquiry Officer and directed the petitioner to submit his reply within 15 days. In the said show-cause notice, an allegation was made that the petitioner had violated the provisions of the Bihar Jail Manual. Counsel further submits that, in response to the second show-cause notice, a detailed reply was submitted, whereupon, a punishment order dated 01.11.2021 was passed, which has been challenged in the present writ petition. Senior counsel submits that the petitioner is a Gazetted Officer therefore, he preferred a review petition under the Bihar CCA Rules, 2005, which was again rejected on 30.12.2021 contained in Memo No. 10806, and the order of punishment was approved/affirmed. Senior counsel further submits that in the punishment order, which has been approved by the Appellate Authority, allegations of violation of Rule 796 and Rule 870 of the Bihar Jail Manual have been levelled against the petitioner. Senior counsel further submits that after issuance of the second show-cause notice alleging violation of the said provisions of law, namely Rule 796 and Rule 870 of the Bihar Jail Manual, no opportunity of hearing was granted to the petitioner and the same amounts to gross violation of Rule 18(3) of the Bihar CCA Rules, 2005.



5. Learned Senior counsel for the petitioner further submits that a similar case was filed against the petitioner alleging charges, which the petitioner challenged in ***C.W.J.C No. 4978 of 2023 (Sujit Kumar Jha Vs. The State of Bihar & Ors.)***, wherein, *vide* order dated 15.09.2025, the writ petition was allowed and the resolution dated 09.11.2022, whereby punishment of withholding of four increments of pay with cumulative effect had been awarded, was quashed, and the petitioner was held entitled to consequential benefits, including monetary benefits. Senior counsel further relied upon the judgment of the Hon'ble Supreme Court of India in the case of ***Punjab National Bank and Ors. Vs. Kunj Behari Misra***, reported in ***(1998) 7 SCC 84***, and submits that whenever the Disciplinary Authority disagrees with the Enquiry Authority on any article of charge, then before it records its own finding on such charge, it must record its tentative reasons for such disagreement and give the delinquent officer an opportunity to represent before it records its finding. Senior counsel submits that in the present case, disagreement and reasons have been assigned, but no opportunity to represent before recording its finding has been granted to the petitioner, which is a gross violation. Hence, he submits that the said punishment order and



the review order be set aside, as the punishment order has been passed without granting any opportunity prior to the finding of the Disciplinary Authority.

6. Learned counsel for the State, on the other hand, submits that there is no need for any interference in the orders passed by the Disciplinary Authority and the Review Authority, as Rule 18(2) of the Bihar CCA Rules 2005, clearly indicates the circumstances under which the Disciplinary Authority may disagree with the Enquiry Authority, and for that it is only required to assign its own reasons. Therefore, according to him, there is no violation of Rule 18 of the Bihar CCA Rules 2005, and the punishment order has been passed only after granting a second show-cause notice, meaning thereby, an opportunity of hearing has been granted to the petitioner. Hence, there is no violation of either the Rules or the judgment quoted and relied upon by the learned Senior counsel for the petitioner.

7. Upon hearing the parties and after going through the records, it transpires that the charge memo is in four parts. The first part is the details with regard to the petitioner. The second part is the summary of allegations of misconduct or misbehaviour. The third part is the allegation of charges of misconduct or misbehaviour. The fourth part is the list of



documents and the list of witnesses on which the charges are to be proved. This Court finds that both the Enquiry Officers have found the charges not proved against the petitioner, but in the second show-cause notice dated 17.05.2021, reasons have been assigned for disagreement and a reply has been sought. It transpires to this Court that, in accordance with Rule 18(3) of the Bihar CCA Rules, 2005, a specific show-cause notice was issued and, in this manner, an opportunity was granted to the petitioner on the point of disagreement for which reasons were assigned.

8. With regard to the judgment in the case of ***Sujit Kumar Jha (supra)***, wherein, relief was granted to the petitioner, but the factual matrix is slightly different, as in the said case, during the period of posting of the petitioner, a video went viral on social media regarding a quarrel that took place between prisoners on 30.08.2017. However, in the present case, the situation is quite different, as it is indicated in the charge memo that earlier during two consecutive raids dated 17.06.2018 and 09.07.2018, the District Administration found 10 mobile phones, scissor, knife, mobile charger, and a huge quantity of contraband articles on 17.06.2018, whereas 2 mobile phones and other contraband articles were seized on 09.07.2018.



9. A composite charge has been issued indicating recovery of 11 mobile phones, 09 mobile chargers, 02 pen drives, 02 memory cards, other electronic articles, cash amounting to Rs. 19,300/-, 500 ml of foreign liquor, 100 grams of *ganja*, and huge quantities of *khaini*, *gutkha*, *bhang*, cigarettes. Objectionable items were recovered along with mobile phones, scissors, knives, and mobile chargers. In the charge memo, it is alleged that raids were conducted on three occasions, namely on 17.06.2018, 09.07.2018, and 11.08.2018, and repeated recovery of such articles has been alleged to be in violation of the provisions of law under the Bihar Police Manual, as indicated in the second show-cause notice, the punishment order, as well as in the review order.

10. It is for this reason that the factual matrix of the case of ***Sujit Kumar Jha (supra)*** is different from the present case. Therefore, in the opinion of this Court, the said judgment is not applicable in the present case and shall not help the present petitioner in any manner in the present case.

11. So far as the judgment passed by the Hon'ble Supreme Court of India in the case of ***Punjab National Bank and Ors. (supra)*** is concerned, it's Para 19 thereof is most relevant for the present case, which states as follows:—



“19. The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof, whenever the disciplinary authority disagrees with the enquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the enquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the enquiry officer. The principles of natural justice, as we have already observed, require the authority which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer.”



12. From the said observation made by the Hon'ble Supreme Court, it become crystal clear that whenever the Disciplinary Authority disagrees with the Inquiry Authority on any article of charge, then before it records its own finding on such charge, it must record its tentative reasons for such disagreement and give the delinquent officer an opportunity to represent before it records its finding. Meaning thereby, prior to passing the final order, an opportunity to represent has to be given to the delinquent by the Disciplinary Authority.

13. In the present case, the disagreement memo, i.e., the second show-cause notice dated 17.05.2021, assigns tentative reasons for such disagreement, and the delinquent officer was given an opportunity to represent. The delinquent officer replied to the show-cause notice, and only thereafter, the final order was passed. Therefore, this Court is of the firm view that the ratio laid down in the case ***Punjab National Bank & Ors. (supra)***, as mentioned in it's para 19 quoted above, has been duly followed.

14. This Court finds that there is neither any violation of law nor any violation of principles of natural justice, nor is the punishment exorbitant, as it has been imposed only for the stoppage of three increments with cumulative



effect.

15. Hence, this Court is not inclined to interfere in this matter, as the punishment order as well as the review order have been passed in accordance with law. Accordingly, the present writ petition stands dismissed.

(Dr. Anshuman, J)

Aman Kumar/-

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

