

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 4919 of 2023

Manoj Kumar Singh S/o Karu Pd. Singh Resident of Village Birnaudha, P.S. Shambhuganj, District Banka at Present resident at Lalita Devi Lane, Choti Khanjarpur, Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Banka.
2. The District Magistrate, Banka.
3. The Senior Additional Collector, Banka.
4. The Deputy Collector (Establishment), Banka.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ray Saurabh Nath
For the Respondent/s : Mr.Manish Kumar (Gp4)

CORAM: HONOURABLE MR JUSTICE RITESH KUMAR

ORAL JUDGMENT

Date : 19-02-2026

Heard the parties.

Interlocutory Application No. 1 of 2023

2. The present interlocutory application has been filed for impleading the Commissioner, Bhagalpur Division, Bhagalpur as party respondent in the instant writ petition, since the order contained in Memo No. 127 dated 25.01.2023 has been assailed by the petitioner in the instant writ petition.

3. The learned counsel for the State has got no objection to the same.

4. Accordingly, I. A. No. 1 of 2023 is allowed. The



Commissioner, Bhagalpur Division, Bhagalpur is impleaded as Respondent No.5 in the present writ petition. The learned counsel for the petitioner is directed to make necessary correction in the cause title of the petition during course of the day.

CWJC No. 4919 of 2023

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

“... For quashing the order issued by the District Magistrate, Banka vide Memo No 472 dated 08.07.2022 by which the service of the petitioner has been terminated and the order dated 25.01.2023 passed by the Commissioner, Bhagalpur in Miscellaneous (Service) Appeal Case No 29 of 2022-2023 whereby the memo of appeal filed by the petitioner stood rejected mechanically on the enquiry report dated 26.10.2021 presented by Senior Deputy Collector, Banka. And in the consequence grant of all the benefits which include arrears of salary/suspension allowance and promotion for which the petitioner is entitled.”

6. The brief facts giving rise to the present writ petition is that while petitioner was posted as Block Agriculture Officer, Dhoraiya, a first information report bearing Dhoraiya P.S. Case No. 02 of 2016 was registered against him and the petitioner was put under suspension vide Memo No. 197 dated 28.03.2016. The petitioner was also served with a show cause



notice issued by the District Panchayat Raj Officer, Banka vide Memo No. 1512 dated 23.08.2016. The petitioner filed his detailed reply wherein he denied all the charges levelled against him, however the departmental enquiry was conducted and the Enquiry Officer submitted his report on the same day, i. e. the date on which the petitioner filed his show cause reply, i. e. 20.09.2016. From perusal of the enquiry report, it would transpire that the same was prepared with pre-determined mind, since no oral evidence was adduced on behalf of the Department nor any documentary evidence was relied upon to prove the charges against the petitioner.

7. The learned counsel for the petitioner submits that upon receipt of the enquiry report, the D. M., Banka proceeded to issue second show cause notice to the petitioner vide Memo No. 584 dated 08.11.2016, however the petitioner could not receive the same, since he was already taken into custody on 17.11.2016, in connection with Dhoraiya P. S. Case No. 02 of 2016. The said notice was received by the petitioner on 23.12.2016, in jail, therefore, he could not submit his show cause reply. The District Magistrate, Banka vide Memo No. 46 dated 03.02.2017 proceeded to terminate the petitioner from service, without even considering the fact that the Enquiry



Officer submitted his enquiry report on the same day, when the reply was submitted by the petitioner before the Enquiry Officer, i. e. 20.09.2016. The petitioner preferred statutory appeal before the Commissioner, Bhagalpur Division, Bhagalpur, however the same was rejected vide order dated 01.07.2017. The petitioner, being aggrieved with the order of termination passed by the Disciplinary Authority and the order passed by the Appellate authority, filed a writ petition bearing CWJC No. 18401 of 2017, which was finally heard and allowed by a coordinate Bench of this Court vide order dated 25.07.2018, whereby the learned coordinate Bench proceeded to quash the enquiry report dated 20.09.2016, the punishment order dated 03.02.2015, passed by the District Magistrate, Banka and the order of the Appellate Authority dated 01.07.2017 passed in Appeal Case No. 26 of 2016-2017. The matter was remitted back to the respondent-authorities for conducting fair and proper enquiry, after giving proper opportunity for his participation, either himself or through his agent as it was informed that the petitioner was still in custody.

8. The learned counsel for the petitioner further submits that in the meantime, vide judgment dated 04.10.2019 passed in Trial No. 35 of 2019, arising out of Dhoraiya P. S. Case No. 02



of 2016 by the Judicial Magistrate, First Class, Purnea, the petitioner was acquitted of the charges levelled against him by giving him the benefit of doubt. After his release from jail on 21.04.2020, the petitioner gave his joining before the D. M., Banka on 27.04.2020, through Speed Post, since, during the relevant time, complete lock down was enforced by the Government of India on account of Covid-19 Pandemic. The petitioner was allowed to join, but at the same time, he was put under suspension since 03.02.2017 vide Memo No. 225 dated 21.05.2020 issued under the signature of the District Magistrate, Banka, which was assailed by the petitioner by filing CWJC No. 8467 of 2020, wherein vide order dated 09.02.2021, the writ petition was disposed of with a direction to the authorities concerned to pay subsistence allowance to the petitioner. The petitioner was again served with Memo of Charge contained in Memo No. 240 dated 26.05.2020 issued under the signature of Senior Deputy Collector, Banka.

9. The learned counsel for the petitioner submits that the said Memo of Charge was the same Memo of Charge, which was served upon the petitioner on 23.08.2016. The petitioner filed his reply to the show cause on 08.06.2020, wherein he denied all the charges levelled against him and he requested the



Enquiry Officer to give him opportunity of personal hearing and to participate in the departmental proceeding, so that he can rebut the charges levelled against him. The Enquiry Officer, without examination of any witness and without giving any opportunity to the petitioner, to participate in the departmental proceeding, only on the basis of the documents produced before him, by the Presenting Officer and one another document, i. e. Letter No. 860 dated 23.03.2015, which was not even part of the documents, which the respondent-authorities intended to rely upon during the enquiry, proceeded to prove the charges against the petitioner and submitted his enquiry report before the Disciplinary Authority on 26.10.2021. The Disciplinary Authority vide Memo No. 171 dated 29.03.2022 issued second show cause notice to the petitioner.

10. The petitioner submitted his reply to the second show cause notice issued by the District Magistrate, Banka, on 18.04.2022, wherein he stated that without examination of any witness and production of any document in support of the charge, the entire enquiry was conducted with pre-determined mind. The District Magistrate, Banka vide his order contained in Memo No. 472 dated 08.07.2022, without even considering the reply submitted by the petitioner and only on the basis of the



report submitted by the Enquiry Officer, even went on to record that despite opportunity being given to the petitioner to produce evidences in support of his reply, which the petitioner could not do, proceeded to reject the show cause reply filed by the petitioner and passed the order of punishment, whereby the petitioner was dismissed from service. Being aggrieved with the order dated 08.07.2022 passed by the District Magistrate, Banka, the petitioner filed statutory appeal before the Commissioner, Bhagalpur Division, Bhagalpur, wherein he again raised all the issues in his defence, including non-examination of the witnesses and no opportunity being granted to him to cross-examine the witnesses. The Commissioner, Bhagalpur Division, Bhagalpur by the impugned order contained in Memo No. 127 dated 25.01.2023 rejected the appeal preferred by the petitioner.

11. The learned counsel for the petitioner submits that the report of the Enquiry Officer was prepared without giving any opportunity to the petitioner to participate in the said enquiry or any opportunity of being heard or to cross-examine the witnesses. The entire enquiry was conducted in violation of the provisions contained in Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for brevity,



Bihar CCA Rules) and even the Enquiry Officer did not pay heed to the order passed by the Co-ordinate Bench of this Court in *C.W.J.C. No. 18401 of 2017*.

12. The learned counsel for the petitioner further submits that the enquiry report itself gets vitiated on the ground that the same has been prepared in complete violation of the provisions contained in Rule 17 (14) of the Bihar CCA Rules, since no proper enquiry was conducted and major punishment was awarded to the petitioner, without any documentary evidence or the documents which were relied upon by the Presenting Officer, were not supported by the witnesses examined and no opportunity was given to the delinquent to cross-examine the witnesses. The enquiry report is based on virtually no evidence, since the Enquiry Officer relied upon Memo No. 860 dated 23.03.2015, although the same does not form part of the documents, which were to be relied upon in the memo of charge/show cause notice.

13. The learned counsel for the petitioner further submits that when an enquiry is to be conducted, the Enquiry Officer exercises the jurisdiction of a quasi judicial authority, then he must see that the charges are proved by supporting evidence and supporting documents, in as much as the Enquiry Officer has a



duty cast upon him that the delinquent must get a fair opportunity in the enquiry proceeding and he be allowed to cross-examine the witnesses, produced by the prosecution as well as he should have to give proper opportunity to the defence. The entire enquiry report is based upon conjectures and surmises, since the same has been prepared on the basis of the show cause notice and the reply submitted by the petitioner, without any material witness in support of the documents relied upon by the Enquiry Officer. The impugned order passed by the District Magistrate, Banka on 08.07.2022 is a non speaking order, which is based on no evidence, since no witness in support of the document relied upon by the department, was produced during course of enquiry and even the petitioner was not given any opportunity of being heard or to cross-examine the witnesses.

14. The learned counsel for the petitioner further submits that an impugned order passed by the District Magistrate, Banka is based on the document i. e. Letter No. 860 dated 23.03.2015, which was not part of the show cause notice issued to the petitioner and no witnesses were produced by the Presenting Officer in support of the said letter. Even the appellate authority in his order, recorded a finding that the petitioner failed to



produce any evidence, which is perverse, since it was not the duty of the petitioner to produce evidence, rather it was the duty of the Presenting Officer to produce the witnesses to corroborate the charges and the documents relied upon, but he proceeded to reject the appeal filed by the petitioner only on the ground that the delinquent could not produce any witness in his defence/response. The petitioner was not given any opportunity to produce defence witnesses, to rebut the charges, which have been levelled against him.

15. The learned counsel for the petitioner refers to and relies upon a judgment dated 30.08.2025 passed in *C.W.J.C. No. 1461 of 2023 Dhirendra Kumar Jha vs. The State of Bihar and Ors.* by a Co-ordinate Bench of this Court, wherein the Co-ordinate Bench in paragraph no. 23 has held as follows:-

“23. In the impugned order neither any specific reason has been assigned nor the explanation submitted by the petitioner has been duly considered. A mere reiteration of the allegations are made in the impugned order. The disciplinary authority ought to have passed the impugned punishment order only after recording the reasons, since from the reasons assigned in the impugned order, it could have been inferred whether the



disciplinary authority had applied its mind in order to arrive to the conclusion in the form of punishment or not. In the present case the Disciplinary Authority has itself not examined the evidences and materials produced during the course of enquiry and once the disciplinary authority has failed to record such reasons in the punishment order, the same can not be sustained. The impugned order is therefore cryptic and non-speaking order and is no order in the eye of law. This kind of cryptic and non-speaking order is bad in law”

16. The learned counsel for the petitioner further refers to and relies upon a judgment dated 03.07.1997 passed in *C.W.J.C. No. 878 of 1992 Ugra Nath Jha vs. The Administrator, Biscomaun and Ors.* wherein a Co-ordinate Bench of this Court in paragraphs No. 4 and 5 has held as follows:-

4. Counsel for the Petitioner submitted that the Petitioner was not given any opportunity to adduce evidence and defend himself and there has been violation of rules of natural justice. He submitted that if the Respondents wanted to award major penalty to the Petitioner they should have held full-fledged departmental enquiry. What has been done in the instant case is that the said



Enquiry Officer examined the reports, called the Petitioner for interview and thereafter submitted his report. Counsel for the Respondents submitted that bye-laws do not provide for any departmental proceeding akin to Rule 55 of the Civil Services (Classification, Control and Appeal) Rules, 1930, applicable in the case of Government servants. Therefore, in the absence of any laid-down procedure for conducting the departmental proceeding the Court has merely to see whether the rules of natural justice have been violated. According to the counsel, opportunity of hearing was allowed to the Petitioner. Counsel contended that it was open to the Petitioner to explain the discrepancies as pointed out in the reports which he failed to do. Therefore no error can be found with the impugned order. He also submitted that having regard to the fact that the Petitioner has been punished on the charge of embezzlement this Court should not exercise its discretion and interfere in the matter.

5. I have considered the submissions for the counsel for the parties. I have also perused the enquiry report, copy whereof has been marked Annexure 6 to the writ petition. From the report it appears that the enquiry officer noticed the



aforesaid three inspection reports and thereafter directed the Petitioner to appear. He thereafter called certain clarifications from the Range Officer and Sr. Range Officer. On the basis of the explanation given by the Petitioner and the so-called clarification given by the officers, behind back of the Petitioners, he recorded his findings on 10.3.89 and forwarded the same to the Administrator. Copies of the communications received from Range/Senior Range Officer were not furnished to the Petitioner and he was not allowed any opportunity to explain the same. Since the order is based on materials not known to the Petitioner I find substance in the contention of the Petitioner that there has been violation of natural justice. Further, in my opinion, if the Respondents wanted to impose major punishment they should have held a regular enquiry and given liberty to the Petitioner to adduce his evidence. If they wanted to rely on any report or material which was obtained after the submission of the show cause and explanation orally furnished by the Petitioner, in all fairness, copies should have been given to him so that he could explain them. In the above premises, the impugned order cannot be sustained.

17. The learned counsel for the petitioner further refers to



and relies upon a judgment dated 01.04.2003 passed in ***C.W.J.C. No. 11580 of 1998 Vijay Shankar Shrivastava vs. State of Bihar and Ors.*** wherein a Co-ordinate Bench of this Court in paragraph no. 6 to 8 has held as follows:-

6. In paragraph 18 of the writ application, it has been specifically stated that no opportunity, whatsoever, was given to the petitioner to adduce evidence in support of his case. The statement made in paragraph 18 of the writ application has not been controverted in specific terms.

7. From the record of this case, which has been produced before me, it does not appear that any opportunity was given to the petitioner to adduce evidence in his defence, rather it appears that only a show-cause notice was given to him and thereafter charge-sheet was submitted and he was punished. The proceeding, as it appears, was concluded in most summary way and not in accordance with law. In a case, where a delinquent employee is found guilty for major punishment, a full-fledged inquiry is required to be made in terms of the provisions of the Civil Services (Classification, Control and Appeal) Rules (hereinafter to be referred to as "Rules"). In case of *Kuldip Singh v. Commissioner of Police and Ors.* (1999) 2 SC 10 the apex Court observed as follows:



"32. Apart from the above, Rule 16(3) has to be considered in the light of the provisions contained in Article 311(2) of the Constitution to find out whether it purports to provide reasonable opportunity of hearing to the delinquent. Reasonable opportunity contemplated by Article 311(2) means "hearing" in accordance with the principles of natural justice under which one of the basic requirements is that all the witnesses in the departmental enquiry shall be examined in the presence of the delinquent who shall be given an opportunity to cross-examine them. Where a statement previously made by a witness, either during the course of preliminary enquiry or investigation, is proposed to be brought on record in the departmental proceedings, the law as laid down by this Court is that a copy of that statement should first be supplied to the delinquent who should thereafter be given an opportunity to cross-examine that witness."

Again in the case of Ugra Nath Jha v. The Administrator, Biscomaun and Anr., MANU/BH/0588/1997 : (1998 (1) PLJR 129) this Court held that regular inquiry is necessary, where major punishment is to be imposed even if the rules do not specifically provides for the



same.

8. In the case at hand, requirement of law, as noticed above, has not been followed nor any opportunity was given to the petitioner to adduce evidence when a major punishment was imposed upon him.”

18. The learned counsel for the petitioner further relies on a judgment dated 10.11.2025 passed in ***C.W.J.C. No. 21259 of 2019 Bibhuti Kumar Singh vs. State of Bihar and Ors.*** wherein in paragraphs No. 16 to 18 it has been held as follows:-

16. On perusal of the contents of the enquiry report, a copy of which has been brought on record as Annexure-3 to the writ application, it transpires that the Enquiry Officer has placed reliance on various paragraphs of the Enquiry Report no.61 of 2012 submitted by the Vigilance Department. However, it also transpires that neither any witness was examined on behalf of the Management in support of the allegations/charges against the petitioner nor was the vigilance enquiry report or any other documents exhibited and proved in course of the enquiry.

17. At this stage, it would be relevant to take note of relevant paragraphs of the judgment of the Hon'ble Supreme Court in the case of Satyendra Singh (supra) relied on by learned counsel for



the petitioner. The same are :-

"13. This Court in a catena of judgments has held that the recording of evidence in a disciplinary proceeding proposing charges of a major punishment is mandatory. Reference in this regard may be held to Roop Singh Negi v. Punjab National Bank and Nirmala J. Jhala v. State of Gujarat.

14. In the case of Roop Singh Negi, this Court held that mere production of documents is not enough, contents of documentary evidence have to be proved by examining witnesses. Relevant extract thereof reads as under:-

"14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry



officer on the FIR which could not have been treated as evidence.

15. We have noticed hereinbefore that the only basic evidence whereupon reliance has been placed by the enquiry officer was the purported confession made by the appellant before the police. According to the appellant, he was forced to sign on the said confession, as he was tortured in the police station. The appellant being an employee of the Bank, the said confession should have been proved. Some evidence should have been brought on record to show that he had indulged in stealing the bank draft book. Admittedly, there was no direct evidence. Even there was no indirect evidence. The tenor of the report demonstrates that the enquiry officer had made up his mind to find him guilty as otherwise he would not have proceeded on the basis that the offence was committed in such a manner that no evidence was left.

.....

19. The judgment and decree passed against the respondent in Narinder Mohan Arya case [MANU/SC/1901/2006: 2006:INSC:215: (2006) 4 SCC 713: 2006 SCC (L&S) 840] had attained finality. In the said suit, the enquiry report in the disciplinary proceeding was considered, the same was held to have been based on no evidence. The appellant therein in the aforementioned situation filed a



writ petition questioning the validity of the disciplinary proceeding, the same was dismissed. This Court held that when a crucial finding like forgery was arrived at on evidence which is non est in the eye of the law, the civil court would have jurisdiction to interfere in the matter. This Court emphasised that a finding can be arrived at by the enquiry officer if there is some evidence on record...."

(emphasis supplied)

15. Same view was reiterated in State of Uttar Pradesh v. Saroj Kumar Sinha, wherein, this Court held that even in an ex-parte inquiry, it is the duty of the Inquiry Officer to examine the evidence presented by the Department to find out whether the un rebutted evidence is sufficient to hold that the charges are proved. The relevant observations made in Saroj Kumar Sinha are as follows:-

"28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/ Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the un rebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid



procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.

.....

33. As noticed earlier in the present case not only the respondent has been denied access to documents sought to be relied upon against him, but he has been condemned unheard as the inquiry officer failed to fix any date for conduct of the enquiry. In other words, not a single witness has been examined in support of the charges levelled against the respondent. The High Court, therefore, has rightly observed that the entire proceedings are vitiated having been conducted in complete violation of the principles of natural justice and total disregard of fair play. The respondent never had any opportunity at any stage of the proceedings to offer an explanation against the allegations made in the charge-sheet."

(emphasis supplied)

16. In the case of *Nirmala J. Jhala* this Court held that evidence recorded in a preliminary inquiry cannot be used for a regular inquiry as the delinquent is not associated with it and the opportunity to cross-examine persons examined in



preliminary inquiry is not given.
Relevant extract thereof reads as under:-

"42. A Constitution Bench of this Court in *Amalendu Ghosh v. North Eastern Railway* [MANU/SC/0318/1960 : AIR 1960 SC 992] held that the purpose of holding a preliminary inquiry in respect of a particular alleged misconduct is only for the purpose of finding a particular fact and prima facie, to know as to whether the alleged misconduct has been committed and on the basis of the findings recorded in preliminary inquiry, no order of punishment can be passed. It may be used only to take a view as to whether a regular disciplinary proceeding against the delinquent is required to be held.

43. Similarly in *Champaklal Chimanlal Shah v. Union of India* [MANU/SC/0274/1963 : 1963:INSC:214: AIR 1964 SC 1854] Constitution Bench of this Court while taking a similar view held that preliminary inquiry should not be confused with regular inquiry. The preliminary inquiry is not governed by the provisions of Article 311(2) of the Constitution of India. Preliminary inquiry may be held ex parte, for it is merely for the satisfaction of the Government though usually for the sake of fairness, an explanation may be sought from the government servant even at such an inquiry. But at that stage, he has no right



to be heard as the inquiry is merely for the satisfaction of the Government as to whether a regular inquiry must be held. The Court further held as under: (AIR p. 1862, para 12)

"12.... There must therefore be no confusion between the two enquiries and it is only when the government proceeds to hold a departmental enquiry for the purpose of inflicting on the government servant one of the three major punishments indicated in Article 311 that the government servant is entitled to the protection of that article [nor prior to that]."

44. In Narayan Dattatraya Ramteerthakhar v. State of Maharashtra
[MANU/SC/0526/1997:
1996:INSC: 1348: (1997) 1 SCC
299: 1997 SCC (L&S) 152: AIR
1997 SC 2148] this Court dealt with the issue and held as under:

"... a preliminary inquiry has nothing to do with the enquiry conducted after issue of charge-sheet. The preliminary enquiry is only to find out whether disciplinary enquiry should be initiated against the delinquent. Once regular enquiry is held under the Rules, the preliminary enquiry loses its importance and, whether preliminary enquiry was held strictly in accordance with law or by observing principles of natural justice of (sic) nor,



remains of no consequence.”

45. In view of the above, it is evident that the evidence recorded in preliminary inquiry cannot be used in regular inquiry as the delinquent is not associated with it, and opportunity to cross-examine the persons examined in such inquiry is not given. Using such evidence would be violative of the principles of natural justice.

(emphasis supplied)

17. Thus, even in an ex-parte inquiry, it is sine qua non to record the evidence of the witnesses for proving the charges. Having tested the facts of the case at hand on the touchstone of the Rules of 1999, and the law as expounded by this Court in the cases of Roop Singh Negi and Nirmala J. Jhala, we are of the firm view that the inquiry proceedings conducted against the appellant pertaining to charges punishable with major penalty, were totally vitiated and non-est in the eyes of law since no oral evidence whatsoever was recorded by the department in support of the charges."

18. So far as the facts of the instant case are concerned, herein also no witness was examined, no oral evidence lead nor any document exhibited or proved in support of the allegations levelled against the petitioner. In such view of the matter, the order of punishment imposing the penalty of dismissal from service



is vitiated and not sustainable in law.

19. The learned counsel for the petitioner finally relies on a judgment dated 25.08.2025 passed in ***C.W.J.C. No. 10021 of 2022 Nupul Kumari vs. The State of Bihar and Ors.*** wherein a Co-ordinate Bench of this Court in paragraph no. 8 and 9 has held as follows:

“8. Perusal of the enquiry report further shows that though four witnesses were examined by the enquiry officer but opportunity of cross-examination of those witnesses were not provided to the petitioner. It also appears that the statements of the witnesses were not recorded by the enquiry officer himself rather their written statements were brought on record by the presenting officer and without giving any opportunity of cross-examination of those witnesses, the enquiry officer on the basis of said written statements of the witnesses arrived at the conclusion that the charges levelled against the husband of the petitioner Brajesh Kumar are duly proved.

9. Taking into consideration the above, it is clear that the material witnesses were not examined by the department. Further the witnesses, who were examined by the enquiry officer, have not been cross-examined by the delinquent. Opportunity of cross-examination has also not been given and provided to him. Virtually, it is a



case of no evidence. In spite of that, the enquiry officer wrongly arrived at the conclusion that the charges levelled against the delinquent are duly proved. The disciplinary authority and the authority who dismissed the memorial have also not considered these aspects. Therefore, all the impugned orders are liable to be set aside.”

20. Per contra the learned counsel for the State submits that while the petitioner was posted as Block Agriculture Officer, Dhoraiya, a First Information Report was lodged against him and he was put under suspension in contemplation of departmental proceeding. Show cause notice was issued to him, thereafter the petitioner filed his show cause reply and the Enquiry Officer after enquiry, submitted his report, after considering the show cause reply submitted by the petitioner in consonance with the report submitted by the District Manager, S.F.C., Banka -cum- Presenting Officer and found the charges levelled against the petitioner to be proved. Upon the receipt of the enquiry report, 2nd show cause notice was issued to the petitioner, but the petitioner did not file any reply, as such punishment was imposed, which was subsequently quashed by this Court. In terms of the liberty granted by this Court, the departmental proceeding was again initiated and memo of charge was issued to the petitioner. In compliance thereof he



filed his show cause reply and after considering the same the enquiry report was submitted. Second show cause notice was issued to the petitioner and after considering the same, the order of punishment dated 08.07.2022 was passed. Being aggrieved with the said order, the petitioner filed his appeal which was numbered as Service Appeal No. 29 of 2022-2023, but the same was also rejected by the appellate authority vide order dated 25.01.2023.

21. The learned counsel for the State submits that there is no infirmity in the enquiry report or the order passed by the disciplinary authority, since due opportunity was given to the petitioner to participate in the departmental proceeding and after thorough enquiry, the Enquiry Officer came to the conclusion that charges against the petitioner have been found to be proved, thereafter, the Disciplinary Authority proceeded to award punishment of dismissal from service, upon the petitioner.

22. Having heard the parties and after going through the document available on record, this Court finds that after the matter was remitted back to the respondent authorities for proceeding afresh, but again the same charge memo was issued to the petitioner, which was issued, prior to passing of the order dated 25.07.2018 in C.W.J.C. No. 18401 of 2017. From perusal



of the charge memo it would transpire that no list of witness was provided with the memo of charge, which is in complete violation of the provisions contained in Rule 17 (3) and (4) of the Bihar CCA Rules, since the petitioner was denied an opportunity to cross-examine the witnesses, to be relied upon by the department, to rebut the charges against him. Further, it appears that the enquiry report was submitted in complete violation of the provisions contained in Rule 17 (14) of the Bihar CCA Rules, since no proper enquiry was conducted in the present case and the petitioner was not given an opportunity to examine the witnesses or to cross-examine the witnesses, produced by the department. Even the Enquiry Officer as well as the disciplinary authority heavily relied on Memo No. 860 dated 23.03.2015, to come to the conclusion that the charges against the petitioner have been found to be proved, but the said letter was never made part of the document to be relied upon by the department while issuing memo of charge to the petitioner and the same was all of a sudden relied upon by the Enquiry Officer to prove the charges, for which no opportunity was given to the petitioner to rebut the same and the said document was not proved by its author. Further, it is the duty of the Enquiry Officer, exercising the jurisdiction of quasi-judicial



authority, that he must see that the charges must be proved by proper evidence as well as documents and the Enquiry Officer must ensure that the delinquent must get fair opportunity. If he fails to adhere to the same, then it can be said that the enquiry was not conducted in a fair manner. In the present case, this Court finds the said omission on the part of the Enquiry Officer.

23. From the above consideration, this Court finds that the order impugned contained in Memo No. 472 and the appellate order contained in Memo No. 127 dated 25.01.2023 deserves to be set aside and are accordingly set aside.

24. The petitioner is directed to be reinstated in service forthwith. He will be entitled for all the benefits which would have been given to him, if he would have been in service. The present order is being passed taking into consideration that the respondents were given opportunity earlier to correct their mistake, but they did not choose to do so and now again remitting the matter to the Disciplinary Authority to proceed afresh would be offering a premium to the negligence of the Disciplinary Authority and condoning the levity with which the departmental enquiry was conducted.

25. The writ petition is allowed in the aforementioned



terms.

26. Pending applications, if any, shall also stand disposed
of.

(Ritesh Kumar, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.03.2026
Transmission Date	NA

