

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4696 of 2023

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Nutan Kumar Prabhat Son of Late Gauri Shankar Singh Resident of Village-
Kunwarpur Pasrampur, P.S.-Pipra. District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Revenue and Land Reforms Govt. of Bihar, Patna,
2. The Commissioner Cum Appellate Authority, Tirhut Division, Muzaffarpur.
3. The Distirect Magistrate/Collector, West Champaran, Bettiah.
4. The Additional Collector, West Champaran, Bettiah.
5. The Land Reforms Deputy Collector Cum the Presenting Officer, Bettiah, Sadar West Champaran.
6. The Director Cum Inquiry Officer, Accounts Administration and Self-Employment District Rural Development Agency, West Champaran, Bettiah.
7. The Circle Officer, Beriya Circle, West Champaran, Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anand Kumar Ojha, Sr. Advocate
	:	Mr. Shashank Chandra, Advocate
	:	Mr. Nitish Kumar, Advocate
For the Respondent/s	:	Mr. Rishi Raj Sinha, SC-19

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 25-02-2026

Heard the parties.

2. The present writ petition has been filed for quashing the order dated 6.12.2018 contained in Memo No.189 passed by the respondent no. 3 whereby he has dismissed the petitioner from the post of Revenue Karamchari, Circle-Bairiyah, West Champaran with effect from his date of suspension i.e. 29.04.2017 and the order passed in appeal dated 17.01.2023 in Service Appeal No. 92 of 2022 issued by the



respondent no.2 whereby he has affirmed the order of dismissal dated 6.12.2018, by modifying the effect of the said order from the date of its issuance i.e. 06.12.2018 instead of 29.04.2017.

3. Learned senior counsel for the petitioner submits that on 10.01.1986 the petitioner was appointed as a Revenue Karamchari, Circle-Madhubani and thereafter was transferred to Yogapatti circle in 1991, from there he was transferred to different circles/anchals and finally again he was transferred to Bairiyah circle/anchal in the year, 2016. While the petitioner was discharging his duties as Revenue Karamchari, Nautan Anchal, a complaint was filed by one Binod Kumar Singhania before District Grievances Redressal Officer, West Champaran with an allegation that in order to settle two cases i.e. Jamabandi Cancellation Case No. 33 of 2015-16 and Jamabandi Cancellation Case No. 53 of 2015 pending in the court of DCLR, the petitioner is demanding some gratification from the complainant, on the pretext that he has already been paid Rs. 2,00,000/- from the opposite party. In support of his complaint, Binod Kumar Singhania enclosed certain documents like bank statement of Om Prakash Singhania showing transfer of Rs. 2,00,000/- in the accounts of the petitioner on 29.11.2016, death certificate of Om Prakash Singhania as well as a *Sanha*



instituted by Shanti Devi before the SHO Bettiah Town PS in which she had stated that cheque bearing No. 162295 has been misused.

4. Learned senior counsel for the petitioner submits that it is further case of the petitioner that the Public Grievance Redressal Officer, upon receipt of the aforesaid complaint, vide letter no. 174 dated 20.03.2017 called for a report from the District Magistrate, Bettiah, who directed the Additional Collector to enquire into the allegations. The Additional Collector vide Memo No. 813 dated 03.04.2017 issued notice to the petitioner, directing him to appear on 06.04.2017 and in compliance thereof, the petitioner appeared on the said date and tried to submit his written explanation, but the same was not accepted, therefore the petitioner sent a letter dated 13.04.2017 to the District Magistrate, West Champaran at Bettiah wherein he specifically stated that the Additional Collector did not accept his written explanation and as such he has apprehension that he will not get justice before the said authority. In the said letter, the petitioner had explained in detail that he has personal relations with Om Prakash Singhania and on account of said relation earlier also some monetary transaction had taken place between them and since the wife of Om Prakash Singhania was



not well, for which he required some money for getting her treated, as such the petitioner arranged the said money from his friend Ajay Giri, who gave Rs. 200000/- as loan, which was subsequently given by the petitioner to Om Prakash Singhanian and in order to refund the said amount, the said Om Prakash Singhanian issued a bearer cheque No. 162295 dated 04.11.2016 in favour of the petitioner. However, since there was vacations in lieu of Chhath Puja and also on account of demonetization, the petitioner deposited the said cheque in his bank account which was credited on 30.11.2016. Thereafter, the petitioner vide his cheque no.629368 returned the said amount of Rs. 2,00,000/- to the wife of Ajay Giri and as such on 05.12.2016, the said amount was debited from the account of the petitioner. The petitioner also stated in the letter that the case between Binod Kumar Singhanian and Om Prakash Singhanian is related to Chanpatiya and Nautan circle office and the petitioner is posted in Bairiyah circle, therefore under no circumstance the petitioner could have influenced the decision of the said cases.

5. Learned senior counsel for the petitioner further submits that during enquiry, the Additional Collector, Bettiah found the petitioner guilty and vide letter no.825 dated 07.04.2017, informed the District Magistrate, West Champaran



at Bettiah that the allegations against the petitioner of receiving Rs. 2,00,000/- from Om Prakash Singhania to get a favourable order in his favour has been duly proved and based on the said information, the petitioner was put under suspension vide order contained in memo No. 1063 dated 29.04.2017 issued under the signature of the District Magistrate, West Champaran at Bettiah, in contemplation of departmental enquiry and the headquarter of the petitioner was fixed in the office of the Circle Officer, Chanpatiya. A charge memo dated 02.08.2017 contained in Memo No. 2015 was issued wherein certain charges were levelled against the petitioner.

6. The learned senior counsel for the petitioner further submits that from perusal of the charge memo dated 02.08.2017, it would manifest that the charge memo, apart from incorporating the charges merely records the documents based on which the department intends to prove the charges levelled against the petitioner, however none of the documents were enclosed with the charge memo nor the charge memo contained any statement of imputation of misconduct as well as the list of documents and the witnesses to be relied upon by the department as mandated by Rule 17(4) of the Bihar Government Servants (CCA) Rules, 2005. He further contends that therefore



the charge memo which was issued in contravention of the aforesaid mandatory provision of the Rules, which *per se* renders the disciplinary proceeding bad, since its inception. The petitioner submitted his reply on 26.08.2017 wherein he denied all the charges levelled against him.

7. The learned senior counsel for the petitioner further submits that upon initiation of the departmental proceeding, the enquiry officer is required to fix a date for leading oral and documentary evidences on behalf of the disciplinary authority as contemplated in Rule 17(14) of the Bihar Government Servants (CCA) Rules, 2005, but no such date was ever fixed by the enquiry officer and nor any evidences were adduced on behalf of the department to prove the charges, however, without following the said procedure, the enquiry officer proceeded with the enquiry and sought a written opinion from the Land Reforms Deputy Collector-Cum-Presenting Officer, Bettiah, Sadar, West Champaran, who submitted the same by his letter no. 225 dated 01.09.2017. Subsequently, the enquiry officer directed the petitioner to submit his written statement of defence and in compliance thereof, the petitioner submitted his written statement of defence on 9.10.2017, reiterating his earlier written defence, which was submitted by



him on 26.08.2017, to the charge memo.

8. The learned senior counsel for the petitioner further submits that during entire departmental enquiry, no witnesses were examined to prove the charges and the Presenting Officer did not even tender the documentary evidence during the entire enquiry, but even then the Enquiry Officer submitted his enquiry report on 11.10.2017 whereby he found the charges to be proved against the petitioner. Second show cause notice was issued to the petitioner vide Memo No. 568 dated 18.12.2017 issued under the signature of the ADM, District Establishment Section, East Champaran at Bettiah whereby the petitioner was directed to submit his reply within 7 days and in compliance of the letter dated 18.12.2017, the petitioner submitted his reply on 22.12.2017. Apart from the defence which the petitioner had earlier taken during course of enquiry, the petitioner also stated that the Enquiry Officer during enquiry, acted in a haste and did not even collect necessary evidence, neither the Enquiry Officer appreciated the evidences submitted by the petitioner to rebut the charges nor during the enquiry any witnesses were examined and requested for exonerating him from the charges levelled against him. In the mean time the petitioner filed CWJC No. 18352 of 2018



before this Court challenging the order of suspension dated 29.04.2017, but during the pendency of the aforementioned writ petition, by the impugned order contained in Memo No. 189 dated 6.12.2018 issued under the signature of the District Magistrate/Collector, West Champaran at Bettiah, the petitioner was terminated from service from the date of his suspension i.e. 29.04.2017. The petitioner by way of filing a supplementary affidavit in the C.W.J.C. No.18352 of 2018 questioned the validity of the order of dismissal dated 06.12.2018, but the said writ application was disposed of vide order dated 20.04.2022, giving liberty to the petitioner to challenge the order of dismissal by filling a departmental appeal.

9. The learned senior counsel for the petitioner further submits that the petitioner in terms of the liberty granted by a Coordinate Bench of this court vide order dated 20.04.2022, preferred service appeal which was numbered as Service Appeal No. 92 of 2022 before the Divisional Commissioner, Tirhut Division, Muzaffarpur but the Appellate Authority without even considering the defence taken by the petitioner in his memo of appeal, affirmed the order of dismissal passed by the disciplinary authority on 06.12.2018, by modifying the same to the extent that instead of the order of



dismissal issued from the date of suspension i.e. 29.04.2017, the same will be from the date of its issuance and not from any retrospective date. Meaning thereby that the date of dismissal of the petitioner from service was modified from 29.04.2017 to 06.12.2018.

10. The learned senior counsel for petitioner while assailing the order of dismissal passed by the District Magistrate, West Champaran at Bettiah dated 06.12.2018 submits that the Disciplinary Authority while passing the impugned order of punishment did not consider the defence submitted by the petitioner and relied on the report submitted by the Enquiry Officer. Even the Appellate Authority while rejecting the appeal preferred by the petitioner, did not bother to take into consideration the defence taken by the petitioner in his memo of appeal, whereby he had stated that the said amount was transferred to the account of the wife of Ajay Giri and there was no direct transaction between Neelam Giri and Om Prakash Singhania.

11. The learned senior counsel for the petitioner further submits that the charge memo itself was defective since it does not contain the list of witnesses and it does not contain any statement of imputation of misconduct as well as the list of



documents, as mandated under the provisions contained in Rule 17(4) of the Bihar Government Servants (CCA) Rules, 2005.

12. The learned senior counsel for the petitioner submits that upon initiation of the departmental proceeding, the enquiry officer was required to fix a date for leading oral and documentary evidence on behalf of the disciplinary authority in terms of Rule 17(14) of the Bihar Government Servants (CCA) Rules, 2005, but no such date was fixed nor any evidence was adduced on behalf of the department to prove the charges. He further submits that the departmental proceeding was in violation of Rule 17(23) of the Bihar Government Servants (CCA) Rules, 2005, since no appreciation of evidence was ever done and further, the enquiry report is cryptic, perverse as well as perfunctory in nature, since the report merely records the charges and the explanation of the petitioner to the charges and the opinion of the Presenting Officer, however, the same does not even remotely records the discussion of the enquiry authority, as to how the charges against the petitioner have been proved. Even no reason has been assigned for coming to the conclusion that in what manner the order of Public Grievance Redressal Officer proves the charges against the petitioner. Rules 17(23) of the Bihar Government Servants (CCA) Rules,



2005 provides that upon conclusion of the enquiry, a record shall be prepared which should contain the article of charges, the defence of delinquent and the assessments of the evidence in respect of each of the article of the charges and the findings on each of the article of charges and the reasons thereof, but the enquiry report does not fullfill any of the aforesaid mandate. The Enquiry Officer during the departmental proceeding acted as a representative of the department and not as an independent adjudicator, since the report discloses complete non-application of mind.

13. Learned senior counsel for the petitioner refers to and relies on a judgment of a Division Bench of this Court dated 06.08.2024 passed in *L.P.A. No. 389 of 2024 (Ram Lagan Ram Versus the State of Bihar and Ors.)* wherein in paragraph nos. 16 and 17 the learned Division Bench of this Court has held as follows:-

“16. We also notice the decision of the Hon’ble Supreme Court in the case of Roop Sing Negi Vs. Punjan National Bank reported in (2009) 2 SCC 570, which categorically held that mere production of documents is not proof even in a departmental enquiry and the contents of documentary evidence



will have to be proved by examining witnesses. It was categorically held that an FIR in itself is not evidence without actual proof of facts stated therein. The Department could have examined the witnesses, as we noticed; the Complainant, members of the trap team or even the independent witnesses to the trap, to prove the facts as stated in the FIR.

17. *We find absolutely no reason to sustain the enquiry, the punishment imposed on the basis of such enquiry; in which there was absolutely no material produced as valid evidence. The order of dismissal and the order rejecting the appeal also hence, has to be set-aside. We find the judgment of the learned Single Judge also to be flawed for having not correctly appreciated the law, on the facts coming out in the above case. We set aside the judgment of the learned Single Judge and also find the enquiry to be not in accordance with law.”*

14. Learned senior counsel for the petitioner relies on a judgment dated 19.03.2025 passed by a Co-ordinate Bench of this Court in C.W.J.C. No. 23560 of 2019 (*Md. Jamil Akhtar versus the State of Bihar & Ors.*) wherein in paragraph no. 13, it has been held as follows:-



“13. Perusal of the memo of charge clearly shows that the same was not accompanied by the list of documents and list of witnesses and thus, there is complete defiance of Rule 17(3) and 17(4) of Rules, 2005. It would be worth noting that Rule 17(3) casts an obligation on the disciplinary authority to draw a charge against a delinquent Government servant or cause it to be drawn up against the officer delinquent. It is specifically ruled that the substance of imputation of misconduct or misbehaviour has definite and distinct Articles of Charge. In support of each charge the statement of all relevant facts, including a list of such documents by which and a list of such witnesses by whom the Articles of Charge is sustained. Rule 17(4) of Rules, 2005 further mandates the delivery of charge memo so drawn up either through the disciplinary authority or through an officer duly authorized. The obligation cast on the disciplinary authority has further mandated him to satisfy himself, whether the explanation so forwarded by a delinquent on the proposed charge requires an enquiry by the enquiry officer or requires a closure. While reiterating the afore-noted



proposition of law, this Court in the case of Shankar Dayal vs. The State of Bihar & Ors. (C.W.J.C. No. 7207 of 2016) held that this power is exclusively vested in the disciplinary authority and cannot be delegated.”

15. Learned senior counsel for the petitioner relies on a judgment dated 09.05.2017 passed by a Co-ordinate Bench of this Court in C.W.J.C. No. 610 of 2017 (*Ashwini Kumar versus the State of Bihar & Ors.*) wherein in paragraph nos. 9, 10, 11 & 12, it has been held as follows:-

“9. Before I would proceed to deal with the issue raised and contested, I deem it necessary to refer to Rule 17 of "the Rules" which casts certain obligation on the disciplinary authority requiring a discharge before he proceeds to draw a proceeding for imposing a major penalty. Rule 17(3) of the Rules relates to drawing of a charge-sheet and which inter alia mandatorily requires the disciplinary authority not only to give a list of documents on which the charges are founded but also give a list of such witness by whom, the article of charges are to be proved. Annexure-18 is the charge-sheet and which simply refers to certain documents as evidence but no list of witness accompanies the charge-sheet through whom the department proposed to uphold the charges. In other



*words, the charge-sheet itself is de hors the statutory prescriptions for until such time that a list of witness accompanies a charge-sheet, the documents relied upon by the department suo motu cannot be simply relied upon for proving a charge as held by the Supreme Court in the case of **Roop Singh Negi vs. Punjab National Bank** since reported in (2009)2 SCC 570. That was a case in which the department was relying upon the First Information report to uphold the guilt but no witness was led by the Presenting Officer to prove the police report and it is taking note of such circumstance that the Supreme Court has proceeded to hold thus at paragraph 14 of the judgment:-*

"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."
(Emphasis is supplied)

10. The second ground on which the proceeding stands invalidated is that even though a Presenting Officer was appointed vide Annexure-17 but he has failed in his duty as cast upon him under Rule 17(14) of "the Rules" which inter alia stipulates that, "on the date fixed for the enquiry, the oral and documentary evidence by which the article of charges are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of Government servant. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter without the leave of the enquiring authority. The enquiring authority may



also put such questions to the witnesses as it thinks fit."

11. *It is undisputed that in the present case no witness was led by the department nor any attempt was made by the Presenting Officer to get the documentary evidence proved during the course of the disciplinary proceedings. On the contrary, it is simply taking note of the departmental stand as reflecting from Annexure-21 of writ petition that the Departmental Enquiry Commissioner has proceeded to uphold the quilt and even though the enquiry report runs into almost 30 pages but the substance is lacking because the enquiry report is not supported by any material. The role of an Enquiry Officer and the obligation cast upon him stands discussed in judgment of the Supreme Court rendered in the case of State of Uttar Pradesh vs. Saroj Kumar Sinha since reported in (2010)2 SCC 772 and I am tempted to reproduce paragraph 28 of the judgment which succinctly explains the legal position;*

"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." (Emphasis is supplied)

12. Completing the circle of invalidation is the final order of dismissal which neither takes into consideration the defence so led by the petitioner nor the issue raised by him rather it proceeds to comment upon past conduct of the petitioner to form his opinion, which act of a disciplinary authority has already been deprecated by the Supreme Court in the judgment in the case of **Indu Bhushan Dwivedi vs. State of Jharkhand & Ors.** reported in (2010)11 SCC 278 [2010(3) PLJR (SC)197].

16. Learned senior counsel for the petitioner further relies on a decision of a Co-ordinate Bench of this Court in the case of **Ashok Paswan Versus The State of Bihar & Ors.**



Reported in **2021 (4) PLJR 490** wherein in paragraph no.10, it has been held as follows:-

“10. The Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for short "CCA Rules, 2005) lays down exhaustive procedure for imposition of major and minor penalties. Rule-17 of the CCA. Rules, 2005, which lays down the procedure for imposition of major penalty mandates in sub Rule-4 that the disciplinary authority shall deliver or cause to be delivered to the Government servant a copy of the articles of charge, such statement of the imputations of misconduct or misbehaviour and "a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Government servant to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person". A charge containing allegation of demand or acceptance of bribe ordinarily cannot be proved in the absence of any oral evidence, unless such charge has been proved earlier in any other judicial



or quasi judicial proceeding. It is against basic logic and comprehension that a charge relating to demand or acceptance of bribe can be established by a Department against a Government servant without any witness before the Inquiring Authority unless specifically admitted by the delinquent. As no witness was examined before the Inquiring Authority on behalf of the Department to establish the charge of demand or acceptance of bribe against the petitioner, the petitioner did not have any opportunity to cross-examine.”

17. Learned senior counsel for the petitioner further relies on a decision of a Co-ordinate Bench of this Court in the case of ***Uma Shankar Ram Versus The State of Bihar & Ors.*** Reported in **2025 (1) BLJ 783** wherein in paragraph no.15, 19, 20 and 21 it has been held as follows:-

“15. It is well settled that mere production of a document is not enough. The content of documentary evidence has to be proved by examining witnesses.

19. The role of the Enquiry Officer who is acting in a quasi judicial authority in a departmental/disciplinary authority is well founded that he is not supposed to be a representative of the



department/disciplinary authority. His function is to examine evidence presented by the department, even in absence of delinquent official to see as to whether unrebutted evidence is sufficient to hold that the charges are proved.

20. In the case of **Saroj Kumar Sinha** (supra), the Hon'ble Supreme Court has highlighted the status and duties of the Enquiry Officer by holding that the employee should be treated fairly in any proceeding which may culminate in punishment being imposed upon him.

21. It would be apt and proper to reproduce the relevant paragraphs of the said decision, which are quoted hereunder-

"27. A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the



statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.

28. An inquiry officer acting in a quasijudicial 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.

29. Apart from the above, by virtue of Article 311(2) of the Constitution of India the departmental enquiry had to be conducted in accordance with the rules of natural justice. It is a basic requirement of the rules of natural justice that an employee be given a reasonable opportunity of being heard in any proceedings which may culminate in punishment being imposed on the employee.
30. When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service."''



18. The learned senior counsel for the petitioner further relies on a judgment of the Hon'ble Supreme Court of India reported in **(2010) 2 SCC 772 State of Uttar Pradesh & Ors. Versus Saroj Kumar Sinha**, wherein in paragraph nos. 26, 27 and 28, the Hon'ble Supreme Court of India has held as follows:-

"26. The first inquiry report is vitiated also on the ground that the inquiry officers failed to fix any date for the appearance of the respondent to answer the charges. Rule 7(x) clearly provides as under:

"7. (x) Where the charged government servant does not appear on the date fixed in the inquiry or at any stage of the proceeding in spite of the service of the notice on him or having knowledge of the date, the inquiry officer shall proceed with the inquiry ex parte. In such a case the inquiry officer shall record the statement of witnesses mentioned in the charge-sheet in absence of the charged government servant."

27. A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his



appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.

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 unrebutted 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.

19. Learned senior counsel for the petitioner further relies on a decision of a Co-ordinate Bench of this Court in the case of ***Arun Kumar Verma Versus Chairman Cum Managing Director, BSPHCL & Ors.*** Reported in ***2024 (3) BLJ 539*** wherein in paragraph no.23A, 24 and 25 it has been held as follows:-

23A. It is a settled proposition of law that the reasons should be recorded as it is incumbent upon to authorities to pass a reasoned and speaking order. The Apex Court in the case of Kranti Associates (P) Ltd. vs. Masood Ahmed Khan reported in (2010) 9 SCC 496, Para 47 elaborately considered as how the judicial, quasi-judicial and other orders should be paragraph 47 reads as under:-

"47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.



- (b) A quasi-judicial authority must record reasons in support of its conclusions.*
- (c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*
- (d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*
- (e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.*
- (f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*
- (g) Reasons facilitate the process of judicial review by superior courts.*
- (h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on*



relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

- (i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.*
- (j) Insistence on reason is a requirement for both judicial accountability and transparency.*
- (k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.*
- (l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is*



not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decisionmakers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37].)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija vs. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya vs. University of Oxford [2001 EWCA Civ 405 (CA)], wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".



(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process."

*24. The Hon'ble Supreme Court in the case of **Victoria Memorial Hall vs. Howrah Ganatantrik Nagrik Samity** reported in (2010) 3 SCC 732 reiterated that the decision of the quasi-judicial authorities were to be reasoned one.*

25. Apart from this, when an action suffers from mala fide or oppression or bias, the courts may lift the veil to find not only the motive behind action but correctness of the allegations raised against a person.

20. Learned senior counsel for the petitioner refers to and relies on a judgment passed by a Division Bench of this Court in the case of **The State of Bihar & Ors. Versus Vikash Kumar @ Vikas Kumar** in L.P.A No. 446 of 2024 wherein in paragraph no. 7, 8, 9, 11, 12 & 13 it has been held as follows:-

"7. We beg to differ, since the ground on which the dismissal order was interfered with, was not a technical defect in the conduct of the



enquiry. It is only when the termination of an employee is faulted on a technical ground, there is need for a remand on the ground inter alia of violation of principles of natural justice; so as to resume the enquiry from the stage at which the technical defect is noticed. Where, in an enquiry carried out, there was no proper evidence led, the management cannot be allowed to correct its mistake by making a remand and permitting fresh evidence to be led to find the delinquent employee guilty of the misconduct.

8. *The decisions in **Union of India v. Mohd. Ramzan Khan**, (1991) 1 SCC 588 and **ECIL v. B. Karunakar**, (1993) 4 SCC 727; considered the issue of denial of reasonable opportunity, when the enquiry report was not supplied to the delinquent employee; after the 42nd amendment of the Constitution of India. Before the 42nd amendment of the Constitution, there was a requirement to issue notice to the delinquent employee to show-cause against the punishment proposed, for which a reasonable opportunity of making representation on the penalty proposed was a mandatory condition under Article 311 (2) of the Constitution of India. The 42nd amendment removed the above condition and it was the contention of the employers that there was no requirement to supply the enquiry report. It was categorically held that whenever the*



Enquiry Officer is someone other than the Disciplinary Authority and the report of the Enquiry Officer holds the employee guilty of all or any of the charges; with proposal for any punishment or not, the delinquent employee is entitled to a copy of the report to enable him to make a representation to the Disciplinary Authority against the findings in the report.

9. *The non-furnishing of the report, hence amounts to violation of principles of natural justice; in which context a remand is necessitated, to supply the enquiry report and afford a reasonable opportunity to the delinquent to represent against the prejudicial findings. The remand is to cure the technical defect, so as to avoid any prejudice being caused to the delinquent, by reason of denial of a reasonable opportunity, before being penalized and not to clear up the lacuna committed by the Management in the conduct of the enquiry; especially when the enquiry was carried out in a negligent manner without adducing any valid evidence.*

11. *The learned Single Judge has relied on **Union of India v. P. Gunasekaran; (2015) 2 SCC 610** from which we extract Paragraph 12 and 13:*

12. *Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating*



even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*



(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.

(underlining & bold font supplied, for emphasis)

12. From the above extract it is very clear that the High Court under Article 226/227 is entitled to interfere when the finding of fact is based on no evidence. If in every case where no valid evidence is led at the enquiry proceedings, there is a remand made, it would be offering a premium to the negligence of the Management/ Disciplinary Authority and condoning the levity with which the departmental enquiry was conducted. It is the Disciplinary



Authority who appoints the Enquiry Officer and also the Presenting Officer. We would think that the Presenting Officer would be well versed in the procedures and also be informed of the manner in which evidence has to be led before the Enquiry Officer to prove the misconduct alleged against the delinquent employee.

13. *In disciplinary enquiry proceedings, it is also the trite principle that the standard of proof is preponderance of probability as distinguished from proof beyond reasonable doubt; as would be required in a criminal prosecution. However, if there is no evidence led at the enquiry, there is no question of any preponderance of probability being drawn to find the allegations proved nor can the delinquent be penalized on the basis of peremptory findings without any valid evidence.”*

21. Per contra, the learned counsel for the State-respondents submits that on the complaint filed by Binod Kumar Singhania, a complaint was registered and it was found during course of enquiry that Rs. 2,00,000/- was transferred in the bank account of the petitioner through cheque on 29.11.2016. Further during course of enquiry, the Additional Collector, West Champaran at Bettiah found from the statements of the petitioner, complainant as well as the Land Reforms Deputy Collector, Bettiah that the petitioner after receiving Rs.



2,00,000/- from the Om Prakash Singhanian and his family members told the complainant Binod Kumar Singhanian that if he will give more amount than what has been given by Om Prakash Singhanian, then he will manage to pass an order in his favour. The DCLR, Bettiah submitted that due to busy schedule in the election work from November, 2016 till date of his appearance before the A.D.M., West Champaran at Bettiah, orders in Jamabandi Cancellation Case No.33 of 2015-16 and Jamabandi Cancellation Case No.53 of 2015-16 could not be passed and the order is ready and by 06.04.2017, the orders will certainly be passed. The A.D.M., West Champaran at Bettiah came to the conclusion that during the pendency of the jamabandi cancellation cases, Om Prakash Singhanian issued cheque of Rs. 2,00,000/- in favour of the petitioner and it can be said that the said cheque was issued for the disposal of the two cases and he found the allegations level against the petitioner to be proved.

22. Learned counsel for the State-respondent further submits that based on the above said preliminary enquiry report, the petitioner was put under suspension and memo of charge was framed against him. The Presenting Officer and the Enquiry Officer were appointed and the departmental



proceeding was initiated against the petitioner wherein by letter dated 05.08.2017, the Enquiry Officer directed the petitioner to be present on 12.08.2017 and to submit his explanation with regard to the charges mentioned in Prapatra KA. The petitioner appeared and filed his reply upon which the Enquiry Officer directed the Presenting Officer to make available his findings, on the explanation submitted by the petitioner and 09.09.2017 was fixed as a date for hearing and finally after completion of the enquiry, submitted his report on 30.11.2017, wherein he found the charges to be proved against the petitioner. Second show cause notice was issued to the petitioner and all the relevant documents, including the enquiry report was provided to the petitioner and in compliance thereof, the petitioner submitted his second show cause reply on 22.12.2017, wherein he prayed to exonerate him from the charges levelled against him. The disciplinary authority by considering all the documents, passed the impugned order by which, he dismissed the petitioner from service. The petitioner filed a service appeal before the appellate authority but the same was also dismissed and the order passed by the disciplinary authority as well as the appellate authority are in accordance of law and does not require any interference by this court.



23. Having heard the learned counsel for the parties and after considering the materials available on record, this Court finds that no show cause was issued to the petitioner before issuance of the memo of charge. Further from perusal of the charge memo, it would transpire that the charge memo is based on certain documents, which the department intended to rely during the departmental proceeding/enquiry, but the said documents were not appended to the charge memo, thereby the same was not provided to the petitioner, so that he can rebut the same. Further, the charge memo does not contain any statement of imputation or misconduct as well as the list of documents and witnesses, which is a mandatory requirement as per the provisions contained in Rule 17(3) & (4) of the Bihar Government Servants (CCA) Rules, 2005. Therefore, the charge memo itself was issued in contravention of the provisions contained in the Bihar Government Servants (CCA) Rules, 2005. Further during course of the enquiry, no evidence was adduced on behalf of the department (the Presenting Officer) and no date was fixed by the Enquiry Officer for leading oral and documentary evidence on behalf of the departmental authorities, which is in complete violation of the provisions contained in Rule 17 (4) of the Bihar Government Servants (CCA) Rules,



2005, since no evidence was adduced on behalf of the department and therefore, the petitioner could not get any opportunity to cross-examine the witnesses, which prejudiced the case of the petitioner. In the present case, no documentary or oral evidence was produced. It further appears that the entire charge against the petitioner was that Binod Kumar Singhania made a complaint of illegal demand of money from the petitioner, however the said Binod Kumar Singhania was not made a witness during course of the departmental proceeding, to prove the allegation and to give an opportunity to the petitioner to cross-examine him to rebut the allegations levelled by him. Further, the enquiry report which was submitted by the Enquiry Officer on 18.10.2017 merely records the charges, the explanation submitted by the petitioner to the charges and the opinion of the Presenting Officer. The Enquiry Officer even did not give his opinion after considering the materials produced before him and no reason has been given by the Enquiry Officer to show that how he came to the conclusion that the charges against the petitioner have been found to be proved. It further appears that during course of enquiry, the Enquiry Officer did not act on his own, rather he acted as a representative of the department and the enquiry report appears to be without



application of mind. It further appears that the disciplinary authority while passing the order of punishment without even considering the reply filed by the petitioner came to the conclusion that the petitioner is guilty, during course of enquiry. The disciplinary authority also did not consider any of the defence taken by the petitioner in his second show cause reply and without assigning any reason for rejecting the explanation submitted by the petitioner, proceeded to pass the order of punishment against the petitioner. Similarly, the Appellate Authority has also not assigned any reason to rebut the contention of the petitioner as taken in the memo of appeal and proceeded to reject the complaint of the petitioner only on the ground that Rs. 2,00,000/- was credited in the account of the petitioner. It further appears that during pendency of the writ petition, the petitioner has attained the age of superannuation on 31.11.2025.

24. Accordingly, on the basis of the considerations made above, the order impugned contained in Memo No. 189 dated 06.12.2018 passed by the District Magistrate-Cum-Collector, West Champaran at Bettiah and order dated 17.01.2023 passed in Service Appeal No. 92 of 2022 passed by the Divisional Commissioner, Tirhut Division, Muzaffarpur are



hereby set aside.

25. The High Court under Article 226/227 is entitled to interfere when the finding of fact is based on no evidence and if in every case where no valid evidence is laid at the enquiry proceeding, there is a remand made, it would be offering a premium to the negligence of the management/disciplinary authority and condoning the levity with which the departmental enquiry was conducted. It is the disciplinary authority, who appoints the Enquiry Officer and the Presenting Officer and it is expected that the Presenting Officer would be well versed in the procedures and also be informed in the manner in which evidence has to be laid before the Enquiry Officer, to prove the misconduct, alleged against a delinquent employee. In a disciplinary enquiry proceeding, it is also the trite principle that the standard of proof is preponderance of probability as distinguished from proof beyond reasonable doubt, as would be required in a criminal prosecution. However, if there is no evidence laid at the enquiry, there is no question of any preponderance of probability being drawn to find the allegations proved nor can the delinquent be penalised on the basis of peremptory finding without any valid evidence. The disciplinary authority had an opportunity in a properly



constituted enquiry proceeding and if in such a proceeding no evidence was laid, the punishment of dismissal has to be found to be imposed on no valid evidence. Since, the petitioner has superannuated on 31.10.2025, he would be deemed to have continued in service from the date of dismissal and will be entitled to be paid the entire pay and allowances. The petitioner shall also be entitled to the retirement benefits, including pension from the date of his superannuation.

26. The entire exercise must be completed within a period of three months from the date of receipt/production of a copy of the order.

27. The petitioner would be entitled for pension w.e.f. 01.12.2025.

28. The writ petition is allowed in the aforementioned terms.

(Ritesh Kumar, J)

AjayMishra/-

AFR/NAFR	
CAV DATE	05.02.2026
Uploading Date	26.02.2026
Transmission Date	NA

