

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 281 of 2025

In

Civil Writ Jurisdiction Case No.17872 of 2023

Kumari Sanju Wife of Late Ajay Kumar, Resident of - C/o Late Sudarshan Sharma, B.K. Dutta Lane, New Jakkanpur, P.O.-GPO, P.S. - Jakkanpur, District- Patna.

... ..Petitioner-Appellant/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Director, Primary Education, Bihar, Patna.
3. The Regional Deputy Director, Education, Region- Patna.
4. The District Education Officer, Patna.
5. The District Program Officer (Establishment), Patna.
6. The District Program Officer, Primary Education Patna.

... ..Respondent-Respondent/s

Appearance:

For the Appellant/s : Mr. Dinu Kumar, Advocate

Mr. Vardaan Mangalam, Advocate

For the Respondent/s : Mr. Anjaneya Singh, AC to AAG-13

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 22-01-2026

This letters patent appeal has been filed by the appellant, Kumari Sanju, challenging the order dated 29.01.2025, passed by the learned Single Judge of this Court in CWJC No.17872 of 2023 whereby and whereunder though the enquiry report, the order of termination dt. 19.08.2023 and the appellate order dated 16.11.2023, qua the appellant have been quashed, however the respondents have been directed to conduct the department



proceedings afresh and conclude the same within six months, in accordance with law, nonetheless the payment of consequential benefits has been made dependent upon the result of the fresh departmental proceeding to be conducted by the respondents.

2. The writ petition was filed by the appellant with the following prayers:-

“A. To set aside Punishment of Removal of petitioner issued vide Memo no.-1 Yo-43/2021, 7409 dated 19-08-2023, by the Disciplinary Authority, the District Program Officer (Establishment), Patna as contained in Annexure-P/10.

B. To set aside Order contained in Memo no.1379 dated 16-11-2023, as contained in Annexure- P/12 whereby the Appeal of the petitioner has been rejected by the Appellate Authority, the Regional Deputy Director, Education, Patna Region, Patna.

C. To set aside Inquiry Report dated 06-04-2023 submitted by the Inquiry Officer communicated to the petitioner vide letter no.4272 dated 26-04-2023 by the Disciplinary Authority, as contained in Annexure-P/6, on account of it being perverse.”

3. The case of the appellant, as set out in the writ petition is that she was appointed by the then District Education Officer, Patna vide Memo dated 16.04.1988 on the post of Assistant Teacher and was posted at the Middle School, Raghunath Tola, Danapur, Patna where she joined on 18.04.1988. It has been stated that during the course of her service, she got all the due benefits, including the benefits of



second assured career progression, however when 1½ years approximately was left for her to retire, the District Programme Officer (Establishment), Patna vide letter dated 23.09.2021 asked the appellant herein to furnish her explanation regarding the complaint made by the Secretary, Tejaswai Fans Association Kurji, Magadh Colony, Sadakat Ashram, Patna with regard to her illegal appointment. The appellant had furnished her explanation on 08.11.2021, categorically stating therein that she has been appointed after undergoing the due process of selection and that too by the competent authority as also she has completed 34 years of service. However, the explanation furnished by the appellant was not considered and vide Memo dated 06.05.2022, issued by the disciplinary authority, i.e the District Programme Officer (Establishment), Patna, a departmental proceeding was initiated against the appellant under the provisions of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as the “Rules, 2005”), a conducting officer was appointed, one presenting officer was also appointed and a charge sheet in ‘Prapatra-Ka’, containing the description of the charges framed against the appellant and the evidence made available by the complainant, were served upon the appellant,



while the conducting officer/presenting officer were directed to enquire into the charges framed in 'Prapatra-Ka' and submit enquiry report within 45 days. It may be mentioned here that in 'Prapatra-Ka', the following charges were levelled:-

“(i) Name of the appellant being not present in the Panel pertaining to Teacher appointment of the year 1988;

(ii) Despite her name being not present in the panel, the appellant was appointment on the post of assistant Teacher;

(iii) The appellant was appointment without adhering to the prescribed procedure.”

4. It is the further case of the appellant that she has no idea as to whether her name was in the panel or not but she was appointed vide letter dt. 16.4.1988 by the competent appointing authority, nonetheless she had participated in the departmental proceeding, whereafter an enquiry report dated 06.04.2023 was submitted by the enquiry officer, finding only the Charge No. 1 to have been proved, however the appellant was directed to submit her defence to the said enquiry report, which the appellant had submitted on 15.05.2023. Thereafter, the District Programme Officer (Establishment), Patna vide letter dated 24.05.2023, while mentioning the reasons for coming to a conclusion that apart from allegation no.1, the allegation nos. 2 and 3 have also stood proved in view of the fact that the



appellant was appointed as Assistant Teacher despite the fact that her name did not find place in the first merit list, had granted one more opportunity to the appellant to file a composite defence statement. The appellant had then filed a supplementary defence statement on 09.06.2023 but the District Programme Officer (Establishment), Patna vide order dated 19.08.2023 held that the charges levelled against the appellant have stood proved and accordingly punishment of removal from service was inflicted upon the appellant. The appellant had preferred an appeal to the appellate authority, i.e. the Regional Deputy Direction Education, Patna Region, Patna, however the same had stood dismissed by an order dated 16.11.2023.

5. The respondent had also filed a counter affidavit in the aforesaid writ petition, paragraph nos. 5 to 10 being relevant, are being reproduced herein below:-

“(5) That the present writ application has been filed by the petitioner for setting aside the order of punishment contained in memo no.7409 dated 19.08.2023 (i.e. Annexure P/10) by which the disciplinary authority has terminated the service of the petitioner. Further prayer of the petitioner to set aside the order contained in memo no.1379 dt. 16.11.2023 (i.e. Annexure P/12) by which the Appellate Authority (RDDE, Patna) has also rejected the appeal which had been filed by the petitioner before him.

(6) That from perusal of the writ application, it appears that the instant petitioner has approached before this



Hon'ble Court for setting aside the order of punishment which had been passed by the competent authority after following the provision of CCA Rule. Thus, the order of punishment is an outcome of quasi-judiciary procedure hence until and unless the order of punishment is not against the rule normally the Hon'ble Court restrain themselves to interfere in such decision.

(7) That the answering deponent humbly submits that after receipt of certain complain against the illegal and forged appointment of the petitioner vide letter no.5052 dated 17.08.2021, the complainant had been informed to satisfy the authority w.r.t. her allegation against the instant petitioner. It is further relevant to submit here that the complainant has not only raised this issue before the DEO Office, Patna rather submitted this complain before all superior authority of the Education Department. In such a background of the matter preliminary enquiry had taken place and it has been found that the complaint bears substance.

(8) That in such background of the fact vide order contained in memo no. 3811 dated 06.05.2022 the memo of charge has been framed against the instant petitioner and departmental proceeding has been instituted upon her, in which the DPO (Secondary Education) had been made enquiry officer and School Inspector, Mahendru had been appointed as a presiding officer. That in view of the aforesaid order of the answering deponent, the enquiry had taken place in which the answering deponent has been allowed enough opportunity to discard the charge but she unable to establish her bonafide appointment, accordingly after getting the enquiry report vide letter no. 4272 dated 26.04.2023, she has been asked second show cause on the enquiry report.

(9) That instant petitioner has submitted her reply on 09.06.2023 but failed to establish once again that she is genuine appointees having her name in the recommended panel in view of which she had been appointed. Finally,



when the instant petitioner has failed to establish the genuineness of her appointment the answering deponent after the getting the approval of the DEO, Patna (being a disciplinary authority) has issued the order of punishment vide memo no.7409 dated 19.08.2023 in the departmental proceeding. This order is under challenge here, further the instant petitioner had filed a service appeal before the RDDE, Patna being the Appellate Authority of this cadre and the RDDE, Patna has passed order contained in memo no. 1379 dated 16.11.2023, which is also challenged in the present proceeding.

(10) That the answering deponent further humbly submits that in the departmental proceeding the answering deponent has followed every provision of CCA Rule and further in the departmental enquiry it has been found that the appointment of the instant petitioner is forged and illegal. In such view of the matter the order of punishment has been passed by which the service of the instant petitioner has been terminated thus, the order of punishment is outcome of the quasi-judiciary process and as such it does not deserve any interference.”

6. The learned Single Judge after hearing the learned counsel for the respective parties, has been pleased to hold as follows:-

“5. Considering the aforesaid fact, by order dated 03.01.2024, the record of departmental proceedings was called for by this Court. I have perused the record and found that neither the name of the petitioner is available in the panel nor the panel document was provided to him.

6. In such view of the matter, as the said panel document was not provided to the petitioner, I set aside the enquiry report, the termination letter dated 19.08.2023 (Annexure-P/10) and the appellate order dated 16.11.2023. The respondents are directed to conduct the departmental proceedings afresh and conclude it within six months in accordance with law.



7. The payment of any consequential benefit would depend upon the result of the fresh departmental proceedings.

8. With the aforesaid observation and direction, this writ petition stands disposed of.”

7. The learned counsel for the appellant, Sri Dinu Kumar has submitted that memo of charge, as contained in letter dated 06.05.2022, issued by the District Programme Officer (Establishment), Patna neither contains the name of the witnesses nor the list of documents have been enclosed, which is mandatory as per Rule 17(3) and (4) of the Rules, 2005, hence the entire departmental proceeding qua the appellant stands vitiated in the eyes of law. It is also submitted that after framing of charge and submission of the explanation by the appellant prosecution has not brought on record any oral much less any documentary evidence before the inquiry officer and the complainant, namely Smt. Gayatri Devi, Secretary, Tejaswai Fans Association Kurji Magadh Colony Sadakat Ashram, Patna was neither cited as oral witness nor produced as a witness during the course of the departmental proceeding, thus the present case is a case of no evidence.

8. The learned counsel for the appellant has referred to a judgment rendered by the Hon'ble Apex Court in the case



of *Union of India vs. P. Gunasekaran*, reported in (2015) 2 SCC 610 to contend that the Hon'ble Apex Court has prescribed the scope of judicial review qua the High Courts in matter of disciplinary proceedings and as far as the present case is concerned, the learned Single Judge, in view of the principles laid down by the Hon'ble Apex Court, ought not to have directed for conducting the departmental proceeding afresh. It is submitted that the present case is a case of no evidence, hence the learned Single Judge should not have directed for holding the departmental proceedings afresh as also should not have made payment of consequential benefits dependent upon the result of the fresh departmental proceedings. Paragraph nos.12 and 13 of the judgment rendered by the Hon'ble Apex Court in the case of *P. Gunasekaran* (supra) being relevant are reproduced herein below:-

“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.”

9. At this juncture, the learned counsel for the appellant has referred to a judgment rendered by the Hon’ble Apex Court in the case of ***P. V. Mahadevan vs. MD, T. N. Housing Board***, reported in ***2005 (6) SCC 636***, to contend that delay in initiating departmental enquiry against the delinquent after an inordinate delay is prejudicial to the delinquent and amounts to causing unbearable mental agony and distress, hence protracted disciplinary enquiry against a government employee should be avoided. Thus, it is submitted that the departmental proceeding in question, initiated at the fag-end of the career of the appellant, is fit to be quashed on the ground of delay in initiation of the same.

10. *Per contra*, the learned counsel for the respondents has submitted that allegations levelled against the appellant pertains to her forged appointment and she has failed to establish the genuineness of her appointment before the disciplinary authority, inasmuch as her name does not find place in the merit list/panel as such the charges framed against the appellant goes to the very root of the matter, i.e. regarding the appointment of the appellant being vitiated by fraud and forgery, thus being *void ab initio*. Nonetheless, it is submitted that since the respondents have been directed to conduct a *de novo*



departmental proceeding, they are obliged to do so, however the facts remains that the appellant has now escaped the rigors of punishment of dismissal from service, since she has stood retired from her services with effect from the afternoon of 28.02.2025.

11. We have heard the learned counsel for the parties and perused the materials on record, from which we find that the only relevant issue raised by the learned counsel for the appellant is regarding non-compliance of Rule 17(3) of the Rules, 2005, inasmuch as a bare perusal of memo of charge contained in letter dated 06.05.2022, admittedly does not contain either a list of such documents by which or a list of such witness by whom, articles of charge are proposed to be sustained. Thus, we had put a pertinent query to the learned counsel for the appellant that in case the respondents are directed to adhere to the requirements of Rule 17(3) and 17(4) of the Rules, 2005 while proceeding with a *de novo* departmental proceeding, whether he is agreeable to such modification in the impugned order dated 29.01.2025, to which the response of the learned counsel for the appellant is in the affirmative, however he submits that the time frame fixed for concluding the fresh departmental proceedings be reduced from six months to three months. The learned counsel for



the respondents does not have any objection to the same.

12. At this juncture, it would be relevant to quote Rule 17(3) and (4) of the Rules, 2025 herein below:-

“17. Procedure for imposing major penalties:-

(1). xxx xxx xxx

(2) xxx xxx xxx

(3) Where it is proposed to hold an inquiry against a government servant under this Rule, the disciplinary authority shall draw up or cause to be drawn up-

(i) the substance of the imputations of misconduct or misbehaviour as a definite and distinct article of charge; (ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain-

(a) a statement of all relevant facts including any admission or confession made by the Government Servant;

(b) a list of such document by which, and a list of such witnesses by whom, the articles of charge are proposed to be sustained.

(4) 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.”

13. Having regard to the facts and circumstances of the case and with the express agreement of the learned counsel for



the appellant as also the learned counsel for the respondents, we deem it fit and proper to modify the order dated 29.01.2025, passed by the learned Single Judge in CWJC No.17872 of 2023 to the following extent:-

- (i) The disciplinary authority shall issue fresh memo of charge as per the mandate of Rule 17(3) and (4) of the Rules, 2005, forthwith;
- (ii) The departmental proceeding to be conducted afresh shall be concluded, in accordance with law within a period of three months of receipt/production of a copy of this judgment.

14. Accordingly, the present letters patent appeal stands disposed off with the aforesaid modification in the order dated 29.01.2025, passed by the learned Single Judge in CWJC No.17872 of 2023.

(Sangam Kumar Sahoo, CJ)

(Mohit Kumar Shah, J)

Kanchan/-

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CAV DATE	
Uploading Date	28.01.2026
Transmission Date	

