

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13021 of 2013

Dayanand Ram Nirala S/O Late Ram Ekbal Ram R/O E/60, Peoples Co-Opt.
Colony, P.S.- Kankarbagh, Distt.- Patna-20.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Agriculture Production Commissioner, Bihar, Patna
3. Deputy Secretary, Agri. Deptt. Bihar, Patna
4. Under Secretary, Agri. Deptt., Bihar, Patna
5. Commissioner, Magadh Division, Gaya-Cum-Conducting Officer.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mukesh Kumar, Advocate
For the State	:	Mr. Sita Ram Yadav, GP-16
	:	Mr. Rakesh Kumar Shrivastava, A.C. to G.P.-16

CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 05-05-2026

Heard the parties

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

“(i) For quashing the notification contained in memo no. 20 dt. 16/01/2013 issued under the signature of resp. no. 4 whereby and where under the two annual increments with cumulative effect of the petitioner has been withheld and further it has been ordered that the petitioner shall get nothing except subsistence allowance of the suspension period. It has also been ordered that the punishment shall be amended on the basis of outcome of criminal case.



- (ii) *For direction upon the resp. to allow the petitioner his annual increment and also to pay him full salary of the suspension period*
- (iii) *For any other relief/reliefs to which the petitioner may be found entitled to."*

3. Vide order dated 01.09.2025, some additional prayers

have been added, which are also being reproduced hereinbelow:-

- iv. *For quashing the order bearing Memo No. 139 dated 24.03.2023 issued under the signature of O.S.D., Agriculture Department, Bihar, Patna (Annexure-A to the counter affidavit).*
- v. *To hold that the order passed by reviewing authority is absolutely arbitrary, without consideration of the contention of the petitioner raised in his review application dated 28.02.2013(Annexure-8 to the supplementary affidavit) and therefore, it is unsustainable.*
- vi. *To direct the respondent authorities to ensure all consequential benefits to the petitioner after setting aside the punishment order as well as the order passed by the reviewing authority."*

4. The brief facts giving rise to the present writ petition

are that while the petitioner was posted as Joint Director, Agriculture, Magadh Division, Gaya, certain allegations were levelled against him. He was put under suspension vide notification contained in Memo No. 180 dated 01.04.2011, issued under the signature of the Under Secretary to the Government, Department of Agriculture, Government of Bihar, Patna. Subsequently, vide resolution contained in Memo No. 338 dated



31.05.2011, issued under the signature of the Under Secretary, Department of Agriculture, Government of Bihar, Patna, a decision was taken to initiate departmental proceeding against the petitioner and the petitioner was directed to submit show cause reply within 15 days. Along-with the resolution dated 31.05.2011, Memo of Charge was also served upon the petitioner. The petitioner submitted his reply to the show cause notice on 27.10.2011, whereby he denied all the charges levelled against him and requested the conducting officer to exonerate him from the charges. The conducting officer, after conducting the departmental enquiry, wherein the petitioner also participated, submitted his enquiry report on 20.03.2012, whereby he found charges levelled against the petitioner to be not proved, however he on his own recorded about deficiency in supervision on the part of the petitioner. The disciplinary authority, by differing with the enquiry report, issued second show cause notice to the petitioner vide letter no. 438 dated 06.09.2012. In compliance thereof, the petitioner vide his letter dated 19.09.2012 submitted his reply to the second show cause notice, wherein he denied all the charges levelled against him and also gave explanation to the charges levelled against him. He further requested the disciplinary authority to exonerate him from the charges levelled against him, since the



enquiry officer, during the course of inquiry, did not found the charges to be proved against him. However, by the impugned order contained in Memo No. 20 dated 16.01.2013, issued under the signature of the disciplinary authority i.e. the Deputy Secretary to the Government, Department of Agriculture, Government of Bihar, Patna punishment of stoppage of two increment with cumulative effect was passed against the petitioner and further decision was taken to revoke the suspension of the the petitioner. It was further ordered that apart from the subsistence allowance, which has been paid during the period of suspension, the petitioner will not be entitled for any further payment. It was further recorded in the order dated 16.01.2013 that the punishment order will be modified in future on the basis of the orders passed in the criminal case, which has been lodged against the petitioner. The petitioner preferred a review before the competent authority, however vide order dated 24.02.2023 contained in Memo No. 139, issued under the signature of the Officer-on-Special Duty, Department of Agriculture, Government of Bihar, Patna the review preferred by the petitioner was rejected.

5. The learned counsel for the petitioner submits that the entire departmental proceeding has been conducted in complete violation of the provisions contained in Rule 18(2) of the Bihar



CCA Rules, 2005, which provides that if the disciplinary authority disagrees with the findings of the enquiring authority on any of the articles of charge, he has to record his reason for disagreement and record it's own finding on such charge, if the evidences on record is sufficient for the purpose. In the present case, while issuing second show cause notice to the petitioner, the disciplinary authority has not given any specific reason for disagreement with the inquiry report submitted by the enquiry officer. He further submits that so far the First Information Report, which is said to have been lodged against the petitioner, the Superintendent of Police, Gaya vide his letter contained in Memo No. 180 dated 03.02.2021 requested the District Magistrate, Gaya to accord prosecution sanction against two persons namely Satish Kumar and Indrajeet Kumar Vimal and recorded that the connivance of the petitioner was not found in the case. Accordingly, vide Letter No. 1297 dated 30.12.2022, issued under the signature of the Directorate of Agriculture, Government of Bihar, Patna, prosecution sanction was accorded against both the above named persons.

6. The learned counsel for the petitioner submits that the impugned order of punishment has been passed without considering the reply submitted by the petitioner, since in the



impugned order, no consideration has been made by the disciplinary authority with regard to the reply, which was submitted by the petitioner. He further submits that even while issuing memo of charge, no list of witnesses were provided, upon which the department intended to rely during course of enquiry. He further submits that the enquiry officer, while considering the documents relied upon by the department, did not bothered to direct the presenting officer for adducing oral evidence of the persons, who were the authors of the documents, on which the department was relying. Further, even no opportunity was granted to the petitioner to adduce defense witnesses and to cross-examine the witnesses, since no witness was produced by the department, therefore, there is no question of any cross-examination.

7. The learned counsel for the petitioner further submits that the disciplinary authority, while passing the impugned order of punishment, directed that for the period under suspension, apart from subsistence allowances, the petitioner will not be entitled for any payment, however no show cause notice was issued to the petitioner for inflicting the said punishment, which is required to be given under Rule 97(3) of the Bihar Service Code.

8. The learned counsel for the petitioner refers to and relies upon a judgment of the Hon'ble Supreme Court of India



reported in **2010 (9) SCC 496 (Kranti Associates Private Limited & Anr. Versus Masood Ahmed Khan & Ors.)**, wherein in paragraph nos. 12, 15 & 47 it has been held as follows:-

- “12. The necessity of giving reason by a body or authority in support of its decision came up for consideration before this Court in several cases. Initially this Court recognised a sort of demarcation between administrative orders and quasi-judicial orders but with the passage of time the distinction between the two got blurred and thinned out and virtually reached a vanishing point in the judgment of this Court in A.K. Kraipak v. Union of India [(1969) 2 SCC 262 : AIR 1970 SC 150] .*
- 15. This Court always opined that the face of an order passed by a quasi-judicial authority or even an administrative authority affecting the rights of parties, must speak. It must not be like the “inscrutable face of a sphinx”.*
- 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.”*

9. The learned counsel for the petitioner further refers to and relies upon a judgment of the Hon'ble Division Bench of this Court reported in **2006 (4) PLJR 514 (Dinesh Prasad Versus State of Bihar & Ors.)**, wherein paragraph number 9 and 10, it has been held as follows:-

“9. *Apart from these questions, so far the main question for which this matter has been referred, is concerned, it appears that for imposing the punishment no. (iii) that the petitioner shall not get anything for the period of suspension save and except the subsistence allowance, the disciplinary authority was required to give separate show cause notice to the delinquent in terms of Rule 97(3) of the Code. This part of the order, therefore, is not permissible in absence of any such notice to the delinquent employee.*



10. Admittedly, it appears from the materials on record and also from the record produced before us by the State Counsel that no such opportunity was given to the petitioner in terms of Rule 97(3) of the Code. A Bench of this court while considering this question in the case of Pramod Kumar v. The Champaran Kshetriya Gramin Bank reported in 2003 (4) PLJR 68 relying upon a decision of this court rendered in the case of Mahabir Prasad v. State of Bihar reported in 1988 PLJR 82, held that non-observance of the provisions of Rule 97(3) of the Code would amount to violation of the principles of natural justice. The orders impugned on these scores, appear to be violative of the principles of natural justice as referred to above.”

10. Per contra, the learned counsel for the respondent-State, while referring to the counter affidavit filed on behalf of the department submits that there was an allegation of defalcation of Rs 1,58,537.50/- against the petitioner, for which departmental proceeding was initiated against him. By following the due process of law, the memo of charge was issued to the petitioner and he was directed to submit his reply to the said allegations/charge. A petitioner appeared before the enquiry officer and submitted his reply to the show cause notice. The enquiry officer after conducting the enquiry, although found the charges to be not proved, however he found from the documents and evidences on record that there was a dereliction of duty on the part of the



petitioner for not taking due care in supervising the matter. He further submits that the disciplinary authority, while differing with the report of the enquiry officer, by giving due reasons, proceeded to award the punishment against the petitioner and the same requires no interference from this court, since the order is a reasoned order. He further submits that the review preferred by the petitioner has been rejected, after due consideration of the grounds taken by the petitioner in his review petition.

11. Learned counsel for the State further submits that no notices were required to be given to the petitioner by the disciplinary authority, while passing the order of not making payment of any further amount, apart from the subsistence allowance, which has been paid to the petitioner during the period under suspension. He finally submits that the punishment order has been passed against the petitioner, since there was lack of supervision of the work on the part of the petitioner, and therefore, even after reconsideration of the same, it was not interfered by the review authority.

12. Having heard the learned counsel for the parties and after going through the records, it appears that the petitioner was put under suspension and a departmental proceeding was initiated against him for the charges mentioned in the memo of charge.



However from the memo of charge itself, it would appear that no witnesses were mentioned/supplied to the petitioner, whom the department intended to rely during course of inquiry, which is in complete violation of the provisions contained in Rule 17(4) of the Bihar CCA Rules, 2005. Further, since no witnesses were examined during course of the examination, the petitioner was denied an opportunity to cross-examine the witnesses and further the documents, which were relied upon by the prosecution during the course of enquiry, were never proved by the their respective authors, in absence of examination of any witness. Even the enquiry officer, after appraisal of the documents, came to the conclusion that the allegations/ charges levelled against the petitioner have not been found to be proved, however on his own, he proceeded to record that there is lack of supervision on the part of the petitioner, which was based on the documents, which he had gathered during course of enquiry. However, he did not pain to consider those documents were never proved by their respective authors, therefore it was incorrect on his part to rely on the said documents. Further, while imposing the punishment of non-payment of any amount for the period, the petitioner remained under suspension, except the subsistence allowance, no notices, as required under Rule 97(3) of the Bihar Service Code was ever



given to the petitioner, and therefore, the same is also in complete violation of the principles of natural justice and Rule 97(3) of the Bihar Service Code.

13. Considering the above, this court is of the considered opinion that the impugned order contained in Memo No. 20 dated 16.01.2013 issued under the signature of the Under Secretary, Department of Agriculture, Government of Bihar, Patna and the order contained in Memo No. 139 dated 24.03.2023 passed by the Officer on Special Duty, Department of Agriculture, Government of Bihar, Patna, respectively, deserves to be set aside and are accordingly set aside.

14. It has been informed at bar that during pendency of the present writ petition, the petitioner has superannuated on 30.04.2014. Accordingly, the writ petition is allowed with a direction to the respondent authorities to give due benefit of the increment, to which the petitioner was entitled, prior to passing of the impugned order dated 16.01.2013 and to pay all the consequential benefits to the petitioner within a period of four months from the date of receipt/production of a copy of the order. It is further directed that the petitioner will be entitled for entire salary for the period during which, he remained under suspension,



after deducting the amount, if any, paid to the petitioner towards subsistence allowance.

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

16. Pending application, if any, shall also stands disposed of.

(Ritesh Kumar, J)

Ajay/Pallavi/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	06.05.2026
Transmission Date	NA

