

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8438 of 2024

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Hari Shankar Kashyap S/o- Sripati Pandey Resident of Village- Navin Nagar
Purani Kalali, P.S.- Nawada, District- Nawada and also residing at Paura P.S.
and District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. D.G. of Police, Bihar, Patna.
3. A.D.G. (Budget Appeal and Welfare), Bihar, Patna.
4. D.I.G., Purviya Range, Bhagalpur.
5. S.P., Naugachhia.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ebrahim Kabir, Advocate Ms. Shruti Sinha, Advocate
For the State	:	Mr. Dharendra Kumar (AC to GP-5)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 03-02-2026

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

2. The present writ petition has been filed for
issuance of an appropriate writ, order or direction for the
following relief/s:-

*“1. For quashing memo no. 2236/Ra
Ka Dt. 12.11-2022 issued by S.P.
Naugachhia where by petitioner has*



been inflicted punishment of forfeiture of six month increment with non cumulative effect and equal to one black mark i.e. Annexure-4 and also for quashing memo no 1536 / Sa Sa Dt. 25/08/2023 issued by DIG Purviya Range Bhagalpur whereby the appeal of the petitioner has been rejected i.e. Annexure-6 and also for quashing file no 50/2023/14/appeal Kosang Dt. 23/01/2024 issued by ADG (Budget, appeal and welfare) Bihar Patna whereby the appeal filed before him has been said to be not to be considered under rule 23 of Bihar C.C.A. Rule 2005 and police Manual Rule 851 (B) and rejected i.e. Annexure 7 and for grant of all consequential benefits or for any other order or orders which this Hon'ble court may deem fit and proper under the circumstances of this case.”

3. Learned counsel for the petitioner submits that the petitioner joined his service on the post of Sub-Inspector of Police in 2009. The petitioner was serving in the Naugachhia P.S and thereafter, transferred to Bhagalpur district. Counsel



submits that a departmental charge was levelled against the petitioner during his posting in Naugachhia P.S followed by charge memo and departmental enquiry in which charges were proved against him. The matter was recommended before the Disciplinary Authority and the Disciplinary Authority has passed final order against the petitioner imposing punishment of stoppage of six month increments with non cumulative effect which is equivalent to one black mark. Counsel further submits that the petitioner has challenged the said order passed by the Disciplinary Authority before the Appellate Authority (DIG, Purviya Range, Bhagalpur). But, the appeal of the petitioner was rejected *vide* Memo No. 1536 dated 25.08.2023. Thereafter, the petitioner filed further appeal before the ADG (Budget, Appeal and Welfare), Bihar, Patna which was also rejected, as not maintainable. On the point of merit, learned counsel for the petitioner submits that from the orders passed by the Disciplinary Authority and the Appellate Authority, it become crystal clear that second show cause has not been provided to the petitioner. He further submits that in passing the order, there is a gross violation of Rule 17 of the Bihar CCA Rules, 2005. He submits that he has taken specific pleading in para nos. 24 and 25 of the writ petition that the Disciplinary Authority viz,



the S.P., did not gave opportunity to the petitioner to represent against the enquiry report, which is illegal. He further pleaded that no second show cause was asked by the S.P. before passing the order of punishment. Therefore, he submits that the order has been passed completely in violation of the rule established under law.

4. Learned counsel for the State, on the other hand, submits that the petitioner was granted due opportunity, rule has been followed and a proportionate punishment has been imposed upon the petitioner.

5. Upon a specific query of the Court from learned counsel for the State that what is the response with regard to para 24 and 25 of the writ petition, he fairly submits that in para 41 of the counter affidavit, it has been stated that the submissions made in para 24 and 25 of the writ application requires no comments, however, the fact remains that the Inquiry Officer found the petitioner guilty.

6. In the light of the submissions made, particularly on behalf of the petitioner that opportunity of second show cause has not been given by the Disciplinary Authority, therefore, this Court hereby finds that there is a gross violation of the rule under which the proceeding has to be conducted.



7. Hence, the order passed by the Disciplinary Authority dated 12.11.2022 contained in Memo No. 2236 (Annexure-P/4) and the order passed by the Appellate Authority dated 25.08.2023 contained in Memo No. 1536 (Annexure-P/6), both are hereby set aside. Accordingly, this writ petition stands allowed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	06/02/2026
Transmission Date	NA

