

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1596 of 2017

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Ramesh Kumar, S/o late Udit Narain Purbey, Resident of 14 Kidwaipuri,
South of Thakur Prasad Community Hall, P.S. Budha Colony, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Development Commissioner, Government of Bihar cum Chairman,
Executive Committee, Bihar Council on Science and Technology.
3. The Principal Secretary, Department of Science and Technology cum Vice
Chairman, Executive Committee, Bihar Council on Science and Technology,
Patna, Government of Bihar.
4. Director, Department of Science and Technology cum Secretary Bihar
Council on Science and Technology, Government of Bihar, Patna
5. Project Director cum Enquiry Officer, Bihar Council on Science and
Technology, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhinav Srivastava, Sr. Advocate Mr. Tavseef Waquar, Advocate Mr. Arun Kumar, Advocate
For the Respondent/s	:	Mr. Ajay, GA-5

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V. JUDGMENT

Date : 02-04-2026

Heard learned Senior Counsel for the petitioner and
learned counsel for the respondents.

2. The petitioner has filed the instant application for
the following relief :-

*“That, the application is being filed for
issuance of a writ in the nature of certiorari
for quashing of the order dated 14/3/2016
(annexure-35) passed by respondent No.2,*



Development Commissioner, whereby the Departmental Appeal was dismissed and also for quashing the order of dismissal Vide Memo No. BCST-291 dated 6/6/2014 (annexure- 31) passed by respondent No. 4 Secretary, BCST whereby in Departmental Proceeding the order of dismissal of petitioner was passed by way of major punishment and also for issuance of a writ in the nature of mandamus directing the respondent to reinstate the petitioner with all his back wages and other consequential benefits and also for any other writ/writs. Direction/directions, order/orders as may be deemed fit and proper in the facts and circumstances of the case.”

3. The case of the petitioner in brief is that on 5.5.1992, he was appointed on the post of Maintenance Technician (Lobby Exhibit) in the Bihar Council on Science and Technology. Having been implicated in a trap case leading to registration of Vigilance P.S. Case no.69 of 2007 on 30.5.2007, the petitioner was taken into custody and by order dated 22.6.2007 was placed under suspension. On his release from custody, he gave his joining which was accepted on 16.12.2009 and his suspension was vacated with effect from 6.1.2008.

4. A departmental proceeding was started against the



petitioner on the charges that (i) the petitioner was caught taking bribe of Rs.25,000/- and taken into custody; (ii) Vigilance P.S. Case no.69 of 2007 was registered on 30.5.2007; (iii) in the charge-sheet submitted by Sri Lal Bahadur Ram, Dy. S.P., Vigilance, there is mention of the petitioner demanding bribe of Rs.25,000/- from the complainant; and (iv) the petitioner had got bail in the criminal case vide order dated 4.1.2008 passed in Cr. Misc. no.51081 of 2007. The petitioner submitted his reply challenging the jurisdiction of the Project Director in issuing of the memo of charge as also demanding some documents. The Project Director rejected the reply filed by the petitioner and sent the file to the Department for further action.

5. On 17.10.2013, the Project Director issued another memo of charge wherein primarily the charges were the same as in the earlier memo of charge. In the memo of charge, there was no list of witnesses and by way of evidence there was mention of only one document i.e. the charge-sheet submitted by the Vigilance Bureau.

6. The respondents came out with a letter dated 17.10.2013 being a decision to proceed against the petitioner in a departmental proceeding as per Rule 17 of the Bihar Government Servants (Classification, Control & Appeal) Rules,



2005 (herein after referred to as 'the CCA Rules, 2005') wherein the Conducting Officer and the Presenting Officer were appointed.

7. The petitioner filed his reply to the memo of charge on 22.11.2013.

8. The petitioner was served with a supplementary memo of charge on 14.2.2014. Though the charges levelled therein were the same as in the earlier memo of charge i.e. that the petitioner had been caught taking bribe of Rs.25,000/- and had been arrested at 3:30 p.m. as per the post-trap memorandum made available by the Vigilance Bureau, this memo of charge was issued under the signature of the Director, Department of Science and Technology –cum– Secretary, Bihar Council on Science and Technology, Patna (respondent no.4).

9. After conclusion of the enquiry, the Conducting Officer submitted his enquiry report on 28.4.2014 finding the charges levelled against the petitioner in the departmental proceeding to have been proved.

10. The petitioner was provided with a copy of the enquiry report to which he submitted his reply on 24.5.2014.

11. The respondents came out with an order dated 6.6.2014 under the signature of the respondent no.4 dismissing



the petitioner from service.

12. The appeal preferred by the petitioner was disposed of by order dated 3.9.2015 by the respondent no.3 observing therein that the same be filed before the respondent no.2.

13. Accordingly, the petitioner filed an appeal before the respondent no.2 on 22.2.2016, which was rejected by order dated 14.3.2016 passed by the respondent no.2.

14. It is submitted by Mr. Abhinav Srivastava, learned Senior Counsel appearing for the petitioner that the very initiation of the departmental proceedings by issuance of the memo of charge as contained in Annexure-5 was illegal, the authority issuing the memo of charge not being competent in absence of any resolution empowering him to issue the same. There was clear cut violation of Rule 17(2), (3), (4), (5)(a) and (c) of the CCA Rules, 2005. The memo of charge was sent by the Project Director contained in his letter dated 5.10.2012 inspite of the fact that he was neither the Appointing nor the Disciplinary Authority. Referring to the order dated 5.5.1992 (Annexure-1), it is submitted that the Appointing Authority of the petitioner was the Executive Committee of the Bihar Council on Science and Technology.



15. It was further submitted by learned Senior counsel appearing for the petitioner that the memo of charge did not mention the list of witnesses whom the respondents proposed to examine in support of the charges. Further, in course of enquiry, no witness was examined and thus no document in support of the charges levelled was proved by any person. Registration of an FIR by itself did not amount to misconduct. In support of his contention, learned Senior counsel for the petitioner relied on the judgment in the case of **Roop Singh Negi vs. Punjab National Bank; (2009) 2 SCC 570, State of Uttar Pradesh vs. Saroj Kumar Sinha; (2010) 2 SCC 772, Vijendra Prasad vs. State of Bihar** (order dated 21.10.2019 in CWJC no.18779 of 2019), **Kumari Rita vs. State of Bihar** (order dated 15.10.2019 in CWJC no.14412 of 2019) and **Anil Kumar Singh vs. State of Bihar** (order dated 3.11.2025 in CWJC no.13272 of 2013).

16. The application was opposed by learned counsel appearing for the State of Bihar who submitted that there were no procedural irregularities in conduct of the proceedings against the petitioner under the CCA Rules, 2005. All the documents being demanded by the petitioner were already available with him and had been annexed along with the bail application filed in the criminal case. Acquittal in the criminal



case would not have any effect in the departmental proceeding which had been started on the petitioner having been caught taking bribe of Rs.25,000/- in the trap case as the proof required are distinct and different. While in the criminal case, the matter is required to be proved beyond all reasonable doubt, in the departmental proceeding, the employee can be punished on the basis of preponderance of probability. Reliance was placed on the judgment in the case of **State of Uttar Pradesh vs. Rajit Singh; (2022) 15 SCC 254** to submit that if it is found that the enquiry was in violation of the principles of natural justice on account of the relevant documents not having been supplied, after setting aside the order of punishment, the matter be remitted back to the disciplinary authority to conduct a fresh enquiry from the stage it stood vitiated.

17. Heard learned Senior counsel for the petitioner and learned counsel for the respondents. Perused the material on record.

18. The relevant facts in brief are that at the relevant time when the petitioner was posted as Maintenance Technician in the Bihar Council on Science and Technology having been implicated in a trap case, an FIR being Vigilance P.S. Case no.69 of 2007 was registered against the petitioner and he was



taken into custody. On being enlarged on bail, the petitioner gave his joining which was accepted and his suspension was vacated.

19. A departmental proceeding was started against the petitioner on the charges of having taken bribe of Rs.25,000/- and being taken into custody, an FIR having been registered against him, charge-sheet having been filed in the case and that he had got bail in the criminal case.

20. In the departmental proceeding, the petitioner submitted his reply challenging the jurisdiction of the Project Director in issuing the memo of charge. He also requested for some documents to be provided to him.

21. The petitioner was served with another memo of charge on 17.10.2013, once again by the Project Director. He was served with a supplementary memo of charge on 14.2.2014. This time under the signature of the Director, Department of Science and Technology-cum-Secretary, Bihar Council on Science and Technology, Patna.

22. After conducting the enquiry, the Conducting Officer filed an enquiry report on 28.4.2014, finding the charges levelled against the petitioner to have been proved. On perusal of the enquiry report, a copy of which has been brought on



record, would show that no witness was examined in support of the charges levelled against the petitioner.

23. At the cost of repetition, it may be stated that even in the memo of charge, there was no mention of any witness. Thus, the only document which finds mention in the memo of charge i.e. the charge-sheet submitted by the Vigilance Bureau, was not proved by any person, no witness having been examined in the departmental proceeding.

24. It may be observed here that the Hon'ble Supreme Court in the case of **Roop Singh Negi** (*supra*) held as follows :-

“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.”



25. Further, a Division Bench of this Court in the case of **Devendra Prasad vs. State of Bihar & Ors.** (judgment dated 19.10.2023 passed in LPA no.1302 of 2017), following Roop Singh Negi (*supra*) observed as follows :-

“7. As has been held in Roop Singh Negi v Punjab National Bank and others; (2009) 2 SCC 570, the documents produced in a departmental inquiry has to be proved by examining witnesses. Even an F.I.R. was held to be not evidence by itself without actual proof of facts stated therein. The Hon’ble Supreme Court had also held that even an admission or confession to the police itself is not sufficient to find the delinquent employee guilty in a departmental proceeding if no evidence is brought on record to prove the offence or misconduct alleged. Departmental inquiry was held to be a quasi-judicial proceeding and the Inquiry Officer functions in the status of a quasi-Judicial authority. Not only should evidence be led in a departmental inquiry, the conclusions arrived at should be based on evidence which brings forth a probability that the delinquent has committed the misconduct alleged and charged against him. No Inquiry Report based on conjectures and surmises can be sustained and even in a departmental inquiry, the standard of proof is not a mere suspicion. However high the degree of suspicion is, it cannot be a substitute for legal proof.”



26. In view of the facts and circumstances of the case and the ratio of the judgment of the Hon'ble Supreme Court in the case of **Roop Singh Negi** (*supra*), this is a case of no evidence against the petitioner. Thus, neither the order of dismissal dated 6.6.2014 passed by the Secretary (Works), Bihar Council on Science and Technology-cum-Director, Science and Technology Department, Bihar, Patna nor the order dated 14.3.2016 passed by the Development Commissioner-cum-Vice Chairman (Executive), Science and Technology Department, Bihar, Patna rejecting the appeal preferred by the petitioner can be sustained and are both hereby set aside.

27. So far as the prayer of the respondents to remit the matter back to conduct a fresh enquiry from the stage it stood vitiated and their reliance on the judgment in the case of **State of Uttar Pradesh vs. Rajit Singh** (*supra*) is concerned, in the opinion of this Court, the facts of this case are distinguishable and thus the judgment being relied upon by learned counsel for the respondents are of no assistance to them. In the said case, the charges against the petitioner have been found to be proved by leading evidence in the departmental proceeding and the only technical ground on which the order of punishment was set aside was violation of the principles of natural justice in as



much as the documents mentioned in the charge-sheet were not supplied to the delinquent officer.

28. So far as the instant case is concerned, no witness was examined in course of the departmental enquiry, no document produced or proved and thus is a case of no evidence. Further, even in the criminal case, the petitioner has been acquitted.

29. In view of the facts and circumstances of the case, the Court does not find it to be a case where the matter be remitted back to conduct a fresh proceeding.

30. The writ application is allowed with all consequential benefits including payment of arrears of salary for the period of suspension and of dismissal.

(Partha Sarthy, J)

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Saurabh

AFR/NAFR	
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