

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8698 of 2025

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Shri Arun Kumar II Son of Sri Prem Chand, Resident of 183/10, Band Gali near Aggarwal Dharamshalla, P.S. Samana, District Patiala, Punjab, at present posted as District and Additional Sessions Judge- V, Civil Courts, Begusarai, Pin Code- 851101, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration, Government of Bihar, Patna.
3. The Registrar General, Patna High Court, Patna, Bihar.
4. The Registrar (Administration), Patna High Court, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Gaurav Kumar
For the State	:	Mr. Vikash Kumar, Standing Counsel (11)
For Administrative Side	:	Mr. Piyush Lal, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ALOK KUMAR SINHA

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 12-03-2026 The petitioner, Shri Arun Kumar-II has filed this writ
petition seeking for following reliefs:-

i) To set aside the order dated 29.10.2024 passed by the Hon'ble Governor, Bihar in Misc. Case No. 09 of 2024 filed by petitioner namely Arun Kumar-II, for review U/S 20 of Bihar Judicial Services (Classification, Control and Appeal) Rules 2020 for setting aside the order of punishment bearing No. 9009/2024 Legal Cell dated 07.02.2024 imposed the penalty



of stoppage of two increments with cumulative effects and order dt. 17.02.2024 of Appointment Section passed by the Hon'ble High Court, Patna after completion of departmental proceeding against the petitioner.

ii) And further be pleased to set aside the order bearing no. 9009/2024/ Legal Cell dated 07.02.2024 imposed the penalty of stoppage of two increment with cumulative effects and order dt. 17.02.2024 of Appointment Section to the extent that he will be entitled to subsistence allowance only for the said period which has already been paid, passed by the Hon'ble High Court, Patna without considering the all facts and circumstances of the whole episode with regard to the petitioner; though he had raised the irregularities which was occurred during departmental proceeding conducted by the Inquiry Officer during whole proceeding.

iii) Petitioner may be given full salary alongwith all allowances, benefits and consequential reliefs of suspension period till his revocation of suspension by the respondent dated 17.02.2024 vide memo no. 11228 by the Patna High Court.

iv) Further respondent be directed to



grant leaves as per Bihar Service code to the petitioner from 24.08.2021 to 10.06.2022 in the light of leave application of petitioner submitted on 17.06.2022 and other pending leaves.

v) To declare the order of suspension dated 19.05.2022 and the said period from 19.05.2022 to 16.02.2024 as null and void, inoperative and against the law and rule and in violation of principle of natural justice and in the violation of guidelines / law laid down by the hon'ble Apex Court of India in a case of Ajay Kumar Chaudhary Vs. Union of India.

vi) Any other relief/ reliefs may be granted to the petitioner as per the law of the land.

2. It is the case of the petitioner that he was posted at Begusarai in the capacity of District & Additional Sessions Judge-V, Begusarai, Bihar and during the period of Covid-19, he was posted as Special Judge, POCSO at Katihar. He submitted a leave application on 13.08.2021 for casual leave for five days and simultaneously sought for permission to leave the headquarters to visit his home. It is the further case of the petitioner that while he was at his home in Punjab, he felt serious breathlessness, weakness, fever and depression etc. and



he got treated by the doctors, who suggested him complete rest and precautions and, therefore, he had no option at that time to come to the headquarters for joining the duty. However, he intimated to the learned District and Sessions Judge, Katihar, regarding his inability to join his duty vide mail dated 24.08.2021. However, he received a communication from the Authority that his application has been rejected for extension of leave and then he received an intimation on 21.05.2022 through email from the District Judge, Katihar regarding his suspension.

3. It appears that in the disciplinary proceeding the following charges were framed which are as follows:-

“Article of Charge framed against Sri Arun Kumar-II, Additional District and Sessions Judge, Katihar (under suspension)”

Sri Arun Kumar-II, Additional District and Sessions Judge-VI, Katihar while functioning as Special Judge, POCSO Act, Katihar, since 24.08.2021 till date has remained absent from his station and duty in an unauthorized manner without permission, as also without any application for leave and that too despite and opportunity with direction to apply for leave, and has also continued to retain charge of his said



Court and office since 19.05.2022 till date in an unauthorized manner in violation of specific directions issued to him vide Orders bearing memo Nos. 30314 dated 19.05.2022 and 138/2022 dated 20.05.2022 to make over the same immediately on his suspension and in turn overburdening the incharge Judicial Officer of his Court during the entire period of ten months from 24.08.2021 till date.

The aforesaid acts and omissions of Sri Arun Kumar-II prima facie show gross misconduct of indiscipline, wilful disobedience, dereliction of duty and intention to abandon service thus unbecoming of and unfit to continue as a Judicial Officer of the Bihar Superior Judicial Services.”

4. He filed the written statement and thereafter inquiry was conducted and finding was given as follows:-

*“From perusal of the record and under the facts and circumstances as discussed above it transpires that the **Article of charge against the proceedee government servant Sri Arun Kumar-II**, mainly relates to that while functioning as Special Judge, POCSO Court at Katihar since 24.08.2021 till*



date has remained absent from his station and duty in an unauthorized manner without permission and also without any application for leave and that too despite an opportunity with direction to apply for leave, and has also continued to retain charge of his court and office since 19.05.22 till date in an unauthorized manner in violation of specific direction issued to him vide order bearing memo no. 30314 dated 20.05.2022 to make over the charge immediately on his suspension and in turn over burdening the in-charge judicial officer of his court during the entire period of ten (10) months from 24.08.2021 till date which shows prima facie gross misconduct, indiscipline, wilful disobedience, dereliction of duty and intention to abandon service, thus unbecoming of and unfit to continue as a judicial officer of Bihar Judicial Services.”

5. The petitioner was asked to file second show-cause and accordingly, he filed the same (Annexure-12). The final order was passed and on the basis of the inquiry report dated 18.09.2023, penalty of stoppage of two increments with cumulative effect was imposed on the petitioner. It is the further case of the petitioner that he approached the Hon'ble Governor



under Section 20 of Bihar Judicial Services (Classification, Control and Appeal) Rules, 2020 for review of the order and the Governor of Bihar, after going through the writ petition as well as comments of this Court and the material available on record, has been pleased to hold that the petitioner was given proper opportunity of being heard and he had participated in the departmental proceedings and that this Court, being the disciplinary authority, considering the entire material, passed the order regarding stoppage of increments and, therefore, there was no merit found in the review petition and, accordingly, the same stood dismissed.

6. The learned counsel appearing for the petitioner mainly contended that authorities were duly intimated about his leave so also he sought for his extension of leave and, therefore, the finding in the inquiry report is based on surmises and conjectures. It is further argued that the petitioner was not in a condition to travel from long distance due to his illness and in view of the advice given by the doctors, he was taking rest, and for which there might be lack of proper communication and, therefore, his case should be sympathetically considered. The petitioner has not challenged that there is any defect in the conducting of the departmental proceeding or that the principles



of natural justice has not been followed. The sole ground is taking leniency on the punishment, that has been imposed on him.

7. It is not in dispute that at the relevant point of time, the petitioner was holding an important post and he was working as Special Judge, POCSO Act, Katihar.

8. Sub-section (2) of Section 35 of the POCSO Act provides that the Special Court shall complete the trial as far as possible within a period of one year from the date of taking cognizance.

9. If the timeline is fixed for disposal of such cases and the main officer i.e., Presiding Officer of the Court remains absent for months together, then the purpose for which such enactment has been made for expeditious disposal of the cases, would be frustrated.

10. Even though, it is the case of the petitioner that the authorities were duly intimated, but the Inquiry Officer found that there were two communications from the side of the petitioner. Moreover, he has been intimated twice *vide* Office Memo No. 30314 dated 19.05.2022 as well as Office Memo No. 138/2022 dated 20.05.2022 to make over the same on his suspension, which is also disputed by the learned counsel for the



petitioner.

11. The Supreme Court in the case of **Indian Oil Corporation Ltd. Vs. Rajendra D. Harmalkar (2022) 17 SCC 361** has made the following observation:-

“27. Even from the impugned judgment and order passed by the High Court it does not appear that any specific reasoning was given by the High Court on how the punishment imposed by the disciplinary authority could be said to be shockingly disproportionate to the misconduct proved. As per the settled position of law, unless and until it is found that the punishment imposed by the disciplinary authority is shockingly disproportionate and/or there is procedural irregularity in conducting the inquiry, the High Court would not be justified in interfering with the order of the punishment imposed by the disciplinary authority which as such is a prerogative of the disciplinary authority as observed hereinabove.

12. Similar view has been taken by the Hon’ble Supreme Court in **Union of India and Ors. Vs. Const Sunil Kumar** (Civil Appeal No. 219 of 2023), relevant paragraph of which is mentioned hereinbelow:-

“6.2.....it is observed and held by this



Court after considering the earlier decision in the case of Union of India Vs. R.K.Sharma; (2001) 9 SCC 592 that in exercise of powers of judicial review interfering with the punishment of dismissal on the ground that it was disproportionate, the punishment should not be merely disproportionate but should be strikingly disproportionate.”

13. Be that as it may, after going through the finding of the inquiry report as well as the order passed by the Hon’ble Governor of Bihar, we do not find any infirmity or perversity in the same. Moreover, since the punishment that has been imposed on the petitioner regarding stoppage of two increments cannot be said to be strikingly disproportionate to the charges leveled against the petitioner and proved in accordance with law by holding the disciplinary proceeding.

14. This Court in its power of judicial review does not act as an appellate authority, it does not reappreciate the evidence adduced in departmental enquiry. Question of adequacy of the evidence or reliable nature of evidence will not be the grounds for interfering with the findings in the departmental enquiry. In the case of ***United Bank of India Vs. Biswanath Bhattacharya reported in (2022) 13 Supreme Court Cases 329***, it is held as follows:-



“21. The Bank is correct, when it contends that an appellate review of the materials and findings cannot ordinarily be undertaken, in proceedings under Article 226 of the Constitution. Yet, from H.C. Goel [Union of India v. H.C. Goel, 1963 SCC OnLine SC 16 : (1964) 4 SCR 718 : AIR 1964 SC 364] onwards, this Court has consistently ruled that where the findings of the disciplinary authority are not based on evidence, or based on a consideration of irrelevant material, or ignoring relevant material, are mala fide, or where the findings are perverse or such that they could not have been rendered by any reasonable person placed in like circumstances, the remedies under Article 226 of the Constitution are available, and intervention, warranted. For any court to ascertain if any findings were beyond the record (i.e. no evidence) or based on any irrelevant or extraneous factors, or by ignoring material evidence,



necessarily some amount of scrutiny is necessary. A finding of “no evidence” or perversity, cannot be rendered sans such basic scrutiny of the materials, and the findings of the disciplinary authority. However, the margin of appreciation of the court under Article 226 of the Constitution would be different; it is not the appellate in character.”

15. In view of the limited scope of interference in the judicial review, we are not inclined to interfere with the same and, accordingly, the writ petition stands dismissed.

(Sangam Kumar Sahoo, CJ)

(Alok Kumar Sinha, J)

HR/-Gaurav

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