

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2729 of 2017

- 1.1. Adarsh Kumar Tiwari Son of Late Lakshuman Tiwary, Resident of Biscoman Colony, Dhanuki, P.S. Alamganj, Patna.
- 1.2. Amitabh Tiwari S.o Late Lakshuman Tiwary, Resident of Biscoman Colony, Dhanuki, P.S. Alamganj, Patna.

... .. Petitioner.s

Versus

1. The State of Bihar
2. The Principal Secretary- Cum- Appellate Authority, Department of Registration Excise and Prohibit
3. Secretary-Cum- Inspector- General, Registration, Government of Bihar, Patna
4. Inspector of Registration Offices, Patna Division, Patna

... .. Respondent.s

Appearance :

For the Petitioners	:	Mr. Vijay Anand, Advocate Mr. Kamala Kant Tiwary, Advocate
For the Respondents	:	Mr. Anil Kr. Sinha. GA-1 Mr. Vikash Kumar, SC 11

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 02.02.2026

Heard learned counsel for the petitioners and learned counsel for the respondents.

2. The original petitioner (hereinafter referred to as ‘the petitioner’) filed the instant application challenging the order dated 30.5.2014 issued under the signature of the Inspector General of Registration, Bihar, Patna whereby in a proceeding conducted against the petitioner, it was ordered that 50% of the pension payable to the petitioner would be forfeited. Further, prayer has been made for quashing the order dated



26.8.2014 of the Secretary-cum-Appellate Authority, whereby the order of punishment was reduced from forfeiture of 50% of the pension to forfeiture of 25% of the pension. The petitioner has also challenged the letter dated 5.10.2016 of the IG, Registration, Bihar and the letter dated 7.12.2016 of the Assistant IG, Registration, Bihar whereby the order of punishment has been communicated to the petitioner.

3. The case of the petitioner in brief is that in the year 2007 he was falsely implicated in Vigilance P.S. Case no. 79 of 2007 registered under the sections 419, 420 and 120B of the Indian Penal Code read with sections 7, 8, 12, 13(1)(a)(b) and 13(2) of the Prevention of Corruption Act. The case went for trial vide Special Case no. 50 of 2007 and the same ended in acquittal of the petitioner, vide judgment dated 30.7.2016 passed by the learned Special Judge Vigilance 1st, Patna.

4. It is submitted by the learned counsel for the petitioner that the petitioner was proceeded against for the charges similar to the allegations levelled against the petitioner in the vigilance case. He was served with memo of charge dated 16.5.2008 in *Prapatra- Ka* to which he filed his reply. The inquiry proceeded and the Inquiry Officer submitted his inquiry report dated 30.12.2008.



5. The respondents authorities differing with the contents of the inquiry report issued a show cause notice to the petitioner on 26.3.2014 to which the petitioner submitted his reply.

6. In the meantime, the petitioner having retired from service on 31.1.2014, the proceedings were converted into a proceeding under Rule 43B of the Bihar Pension Rules.

7. The respondents came out with an order of punishment dated 30.5.2014 forfeiting 50% of the pension of the petitioner. On an appeal having been filed by the petitioner, the Appellate Authority modified the order of punishment of forfeiture of 50% of pension to that of forfeiture of 25% of pension. It is against these orders of punishment as also the communication of the same vide letters dated 5.10.2016 and 7.12.2016 that the instant writ application has been preferred.

8. Learned counsel for the petitioner submits that the petitioner was falsely implicated in the vigilance case. On perusal of the inquiry report, it would transpire that not a single witness was examined on behalf of the respondents in support of the charges levelled nor was any document exhibited or proved. It is further submitted that the charges being similar to that in the criminal case and the petitioner having been honourably



acquitted vide aforesaid judgment dated 30.7.2016, the respondents have no case on merits.

9. In response, it is submitted by the counsel for the respondents that the petitioner was proceeded against in a departmental proceeding on serious and grave charges. Though the criminal case may have ended in acquittal, however, it is well settled that departmental proceedings may still proceed against the petitioner. The petitioner has not been able to point out any procedural irregularities. After giving full opportunity to the petitioner, the departmental proceeding ended in the order of punishment. The petitioner has not been able to point out any illegality in the orders impugned and as such the writ application be dismissed.

10. Heard learned counsel for the parties and perused the material on record.

11. The relevant facts in brief are that the petitioner was proceeded against in a departmental proceeding with a memo of charge having been served on him in *Prapatra Ka* on 16.5.2008. The petitioner filed his reply to the memo of charges and the inquiry proceeded wherein the Inquiry Officer came to submit his inquiry report dated 30.12.2008.

12. It may be observed here that in the criminal



case/FIR lodged against the petitioner for the same/similar charges, the trial proceeded and in the same the petitioner was acquitted vide judgment dated 30.7.2016 passed in Special Case no. 50 of 2007 by the learned Special Judge, Vigilance 1st Patna. Relevant portion of the judgment dated 30.7.2016 is reproduced herein below for ready reference:

“21. In view of the aforesaid prosecution evidence brought on the record the whole prosecution case is based only on surmises and conjectures and there is no supporting evidence to the prosecution allegation. As such the prosecution has completely failed to substantiate the charges framed against any of the accused persons. Consequently the accused persons namely Akhilesh Kumar, Surendra Prasad Singh @ Surendra Prasad, Abhay Kurnar, Radhey Shyam Singh, Naresh Kumar, Jamun Mahto, Lalji Prasad, Laxman Tiwary, Shesh Kumar and Anwar Alam are hereby acquitted from the charges U/s. 120B r/w.420 I.P.C and S.13(2) of the P.C Act and U/s.420 I.P.C and S.8 of the P.C. Act. The accused persons are already on bail, hence they are also discharged from the liabilities of their respective bail bonds.”

13. Though it is true that the evidence required in a criminal case and a departmental proceeding are different in so far as while in a criminal case charges are to be proved beyond



all reasonable doubts, in a departmental proceedings, the same are proved on preponderance of probability, however, so far as the contents of the inquiry report dated 30.12.2008 (Annexure-3) in the instant case is concerned, it transpires that neither a single witness has been examined on behalf of the respondents in support of the charges nor a single document proved or marked exhibit. Thus, in the opinion of the Court, it is a case of no evidence against the petitioner.

14. The conduct of the departmental proceedings and specially the inquiry report is clearly in teeth of the judgments of the Hon'ble Supreme Court in the case of **Roop Singh Negi versus Punjab Natonal Bank; (2009) 2 SCC 570** and **State of Uttar Pradesh vs. Saroj Kumar Sinha; (2010) 2 SCC 772**.

15. Not a single witness having been examined nor any document or the contents thereof marked exhibit or proved in course of the departmental proceeding the case is fit to be allowed on this point alone.

16. In view of the facts and circumstances stated above, the orders impugned dated 30.5.2014 (Annexure-6), the appellate order dated 26.8.2014 (Annexure-7) as also the two letters communicating the order to the petitioner ie letter dated



5.10.2016 (Annexure-9) and the letter dated 7.12.2016 (Annexure-10) are all unsustainable and are hereby set aside.

17. The writ application is allowed with all consequential benefits which shall be paid to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

(Partha Sarthy, J)

Bibhash

AFR.NAFR	
CAV DATE	NA
Uploading Date	4.2.2026
Transmission Date	NA

