

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10839 of 2024

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Manoj Kumar Yadav son of Late Balbachan Yadav, resident of Village-Dhamar, P.S.-Ara Muffasil, District-Bhojpur Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Sahabad Region, Sahabad, District Bhojpur.
4. The Deputy Inspector General of Police, Sahabad Range, Dehari-on-Sone, Bihar, Patna.
5. The Superintendent of Police, Buxar, District-Buxar.
6. The Superintendent of Police, Rohtas, District-Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Subodh Kr. Jha, Advocate Mr. Sarveshwar Tiwary, Advocate
For the State	:	Mr. Government Advocate 7 Mr. Abhinav Ashok, (AC to GA-7)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 09-02-2026

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/writs and order/orders in the
nature of certiorari for the following relief/s:-

*“1. For quashing the order bearing
Buxar district Order No.342/23
issued vide Memo No. 996 dated
25.03.2023 under the signature of
Superintendent of Police, Buxar
(Respondent No.5) by which the*



Respondent No.5 i.e. Superintendent of Police has passed dismissal order against the petitioner without considering the fact that the petitioner was exonerated by conducting officer in its report when the Departmental proceeding was initiated on the basis of criminal case against the petitioner. The order of dismissal is passed by Respondent No.5 against the petitioner is totally arbitrary, against the Principle of Natural Justice as enumerated under Bihar C.C.A. Rules, 2005 and fit to be set aside.

II. For quashing of the appellate order bearing Buxar district Order No. 919/2023 passed by Deputy Inspector General of Police, Sahabad Range, Dehari-on-Sone (Respondent No.4) issued vide Letter No. 1765 dated 09.06.2023 communicated to Superintendent of Police, Buxar and Superintendent of Police, Buxar issued vide Memo No.2569 dated 09.08.2023 to the petitioner by which the appeal of the petitioner was rejected by Respondent No.4 in most mechanical way without considering the points



raised in the memo of appeal and as much as the law in this regard.

III. For quashing of the Memorial order Memo No. 2057 dated 18.06.2024 issued and communicated from the office of Superintendent of Police, Buxar passed by Respondent No.2, by which the memorial application filed by the petitioner has been rejected by Respondent No.2 without considering facts and law.

IV. For issuance of an appropriate writ/writs and order/orders in the nature of mandamus for directing and commanding the respondents that for setting aside the orders of dismissal as well as appellate orders and memorial orders, restore the service of the petitioner with all legal consequential and financial benefits to the petitioner for the ends of justice and equity.

V. Further for any other relief or reliefs for which the petitioner is entitled in the facts and circumstances of this case.”

3. Learned counsel for the petitioner submits that



the petitioner was a Police Constable when he was posted as a member of Riot Control, Kewati House No. 1061 force, with a view to control the riot. The petitioner was leaving in a girls middle school, Bikramganj, Rohtas. On the complaint of Head Master of the school, FIR has been lodged bearing Bikramganj P.S. Case No. 534 of 2019 lodged under I.P.C as well as POCSO Act. Counsel submits that after lodging of the said FIR, the petitioner was taken into custody and suspended from the service. Thereafter, the petitioner was released on bail and then transferred and directed to join in the district of Buxar. Counsel further submits that subsequently, due to the reason that a criminal case was pending against the petitioner and he was sent into custody, a departmental proceeding No. 60 of 2020 was initiated against the petitioner and a memo of charge has been served upon him *vide* letter dated 14.10.2020. Counsel further submits that by virtue of the said charge, a full fledged departmental proceeding has been conducted against the petitioner. The departmental proceeding was initiated, but in the meantime, the petitioner was acquitted in the said criminal case *vide* order dated 07.01.2022 by the Special Court. Counsel submits that after thorough enquiry, the Enquiry Officer submitted his report on 28.03.2022 exonerating the petitioner



from all the charges and found him innocent. Counsel further submits that the Disciplinary Authority disagrees from the said enquiry report and issued a show cause dated 29.01.2023 and given 15 days time to submit his second show cause. Counsel submits that the reply to second show cause was filed, but even then, the punishment order has been passed bearing Buxar District Order No. 342/2023 contained in Memo No. 996 dated 25.03.2023 (Annexure-P/8), by which the petitioner was dismissed from the service.

4. Learned counsel for the petitioner further submits that the petitioner, thereafter, preferred appeal against the order of punishment, but the D.I.G., Sahabad Range (Respondent no.4) has rejected his appeal bearing Buxar District Order No. 919/2023 contained in Memo No. 2569 dated 09.08.2023 (Annexure-P/10). Counsel submits that thereafter, the petitioner filed a memorial before the Director General of Police, Bihar, Patna dated 05.09.2023. But, the said memorial was also rejected bearing Buxar District Order No. 764/2024 contained in Memo No. 2057 dated 18.06.2024 (Annexure-P/12). Counsel, therefore, submits that the order of the Disciplinary Authority, order of the Appellate Authority and the order passed in memorial, all are absolutely bad in law, due to



the reason that the Disciplinary Authority has issued a show cause (Annexure-6) dated 29.01.2023 disagreeing from the enquiry report which is in gross violation of Rule 18(2) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'Bihar CCA Rules, 2005'). Counsel further submits that since, the order passed under Rule 18(2) of the Bihar CCA Rules, 2005 is absolutely not in accordance with law and in violation of the said rule, thereafter, every subsequent order shall also be bad in law. He submits that all the orders impugned in the writ petition are bad in law and be set aside and the petitioner be directed to join his services and also be entitled for all the consequential benefits.

5. Learned counsel for the State, on the other hand, vehemently opposes the prayer of the petitioner and submits that the present writ petition is fit to be dismissed. He submits that the proper opportunity has been provided to the petitioner, charge memo issued and the departmental proceeding conducted. He further submits that according to Bihar CCA Rules, 2005, it is well within the power of the Disciplinary Authority that he may differ from the report of the Enquiry Officer and therefore, he disagrees from the said report and issued a disagreement memo also followed by opportunity of



show cause and passed the disciplinary order which was tested by the Appellate Authority and subsequently in memorial by the Director General of Police, Bihar, Patna, and all were found this correct. Therefore, there is no need of any interference in this matter. He submits that there is no violation of principles of natural justice and the punishment was also not exorbitant, as there was an allegation against the petitioner to outrage the modesty of a school girl and POCSO Act is also added in the said criminal case.

6. Upon hearing the parties, this Court being the Court of Review of the disciplinary proceeding has restricted for the test of the order passed by the Disciplinary Authority that whether the order has been passed in accordance with Bihar CCA Rules, 2005 or not or any violation of principles of natural justice has been made or not, or the order passed is excessive or not.

6.1 For the purpose of answering these questions, it is necessary to quote the relevant para of Annexure-6 i.e. show cause which has been issued by the Disciplinary Authority in accordance with Rule 18(2) of the Bihar CCA Rules, 2005 which states as follows:-

“अतएव जाँच प्राधिकार के मंतव्य से
असहमत होते हुये आपको निर्देश दिया



जाता है कि बरती गई लापरवाही के संबंध में आप अपना अंतिम बचाव स्पष्टीकरण 15 दिनों के अंदर अधोहस्ताक्षरी के कार्यालय में समर्पित करना सुनिश्चित करेंगे। निर्धारित अवधि के अंदर स्पष्टीकरण समर्पित नहीं करने पर यह समझा जायेगा कि आपको इस संबंध में कुछ नहीं कहना है और आपके विरुद्ध अंतिम आदेश पारित कर दिया जायेगा। संचालन पदाधिकारी द्वारा समर्पित मंतव्य की प्रति साथ संलग्न है।”

7. It is also necessary to quote Rule 18(2) of the Bihar CCA Rules, 2005 which states as follows:-

“The disciplinary authority, after receipt of the enquiry report as per Rule 17 (23)(ii) or as per sub-rule (1), shall, if it disagrees with the findings of the inquiring authority on any article of charge, record its reasons for such disagreement and record its own finding on such charge, if the evidences on record is sufficient for the purpose.”

8. Upon perusal of the above quoted rule 18(2) of the Bihar CCA Rules, 2005, it is very much clear that the



Disciplinary Authority upon receiving of the enquiry report may disagree on the enquiry report which has been submitted to him under Rule 17(23)(ii). But the only legal restriction has to be casted upon him that if, he disagrees with the findings of the Inquiring Authority on any article of charge, he shall have to record its reasons for such disagreement and record it's own finding on charges, if the evidences on record is sufficient for the purpose.

9. It transpires to this Court that as per the quoted para of Annexure-6 which has been mentioned above, it become crystal clear that the Disciplinary Authority disagrees with the findings of the Inquiring Authority, but failed to record its reasons for such disagreement and also not recorded its own findings on such charge. Hence, this Court is of the firm view that at the time of taking a decision for disagreement, there is a gross violation of rule 18(2) of the Bihar CCA Rules, 2005 and the said Annexure-6 has been passed in gross violation of Rule 18(2) of the Bihar CCA Rules, 2005. Since, the said letter i.e. Annexure-6 is bad in law, therefore, the subsequent orders/decisions shall also be bad in law.

10. In result, the letter contained in Memo No. 528 dated 29.01.2023 (Annexure-6); order of the Disciplinary



Authority bearing Buxar District Order No. 342/2023 contained in Memo No. 996 dated 25.03.2023 (Annexure-P/8); order of the Appellate Authority bearing Buxar District Order No. 919/2023 contained in Memo No. 2569 dated 09.08.2023 (Annexure-P/10) and the order in the memorial bearing Buxar District Order No. 764/2024 contained in Memo No. 2057 dated 18.06.2024 (Annexure-P/12), all are hereby set aside. The respondent authority is directed to accept the joining of the petitioner. However, the respondent authority shall be at liberty to proceed further in accordance with law, within 90 days. The petitioner shall also be entitled for payment and the consequential benefits.

11. Accordingly, with the aforesaid observation and direction, this writ petition stands allowed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	13/02/2026
Transmission Date	NA

