

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13294 of 2025

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Umesh Chandra Singh S/O late Raj Narayan Singh, Resident of village -
Dalpat Bishunpur, P. S.- Dhaka, District - East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Deputy Inspector General of Police, Munger Rang, Munger.
4. The Superintendent of Police, Munger
5. The Sub Divisional Police Officer, Cum, Enquiry Officer, Tarapur, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Upendra Mishra, Advocate
		Mr. Ravi Kumar, Advocate
For the Respondent/s	:	Mr. Akash Raj, AC to GA- 5

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 29-06-2026

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

2. Learned counsel for the petitioner submits that
the petitioner has filed the present writ petition for the following
reliefs:

*“i. For issuance of an appropriate
writ in the nature of certiorari for quashing the
Enquiry report dated 14.04.2023, arising out of
Munger District Departmental Proceeding No.
62/19.*

*ii. For quashing the Punishment
order dated 03.08.2023, vide Munger District
order No. 1157/2023, passed by the Deputy
Inspector General of Police, Munger Rang,*



Munger

iii. For quashing the Appellate order dated 25. 03. 2025 passed by the Additional Director General of Police (Budget, Appeal or welfare) Bihar, Patna.

iv. For issuance of an appropriate writ in the nature of mandamus commanding and directing the respondent authorities to reinstate the petitioner in service from the date of suspension i.e. 16.03.2019 with all consequential monetary benefit.

v. For issuance of any other relief / reliefs for which the petitioner may be found entitled to.”

3. Learned counsel for the petitioner submits that the petitioner was serving as a Constable and, at the relevant time in the year 2019, was posted at Kharagpur Police Station, Munger. It is submitted that around the same period, the petitioner was promoted to the post of Assistant Sub-Inspector (A.S.I.). Learned counsel further submits that during the General Parliamentary Election, a check-post had been established for checking vehicles and preventing the transportation of illegal articles. The petitioner was deployed at the said check-post along with two Home Guards and two Chowkidars. Subsequently, a video went viral allegedly showing certain police personnel and other officials deployed at the check-post collecting illegal gratification from vehicle drivers in



the name of vehicle checking. On the basis of the said viral video, Kharagpur P.S. Case No. 81 of 2019 was instituted on 16.03.2019 under Sections 384, 386 and 34 of the Indian Penal Code. It is further submitted that, pursuant to the registration of the aforesaid FIR, the petitioner was placed under suspension and Departmental Proceeding No. 62 of 2019 was initiated against him. A charge memo dated 07.06.2019 was issued, which has been brought on record as Annexure-P/1 to the writ petition. Thereafter, an Enquiry Officer was appointed, who submitted his enquiry report on 28.02.2021, on the basis whereof the petitioner was dismissed from service vide order dated 18.06.2021.

4. Learned counsel for the petitioner further submits that aggrieved thereby, the petitioner preferred a departmental appeal before the Director General of Police, Bihar, Patna on 07.07.2021. It is further submitted that the Director General of Police, Bihar, by order dated 10.05.2022, set aside both the enquiry report and the order of dismissal and directed the Deputy Inspector General of Police, Munger Range, Munger to conduct a fresh departmental proceeding in accordance with Rules 17 and 18 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005



(hereinafter referred to as the “CCA Rules, 2005”). Learned counsel further submits that in compliance with the aforesaid appellate order, a fresh charge memo bearing Memo No. 1713 dated 21.05.2022 was issued. The petitioner duly participated in the departmental proceeding, and the Enquiry Officer submitted his report on 14.04.2023.

5. Learned counsel for the petitioner further submits that the enquiry report consists of two parts. In the first part, the Enquiry Officer has categorically recorded a finding that the petitioner was not found to be involved in receiving any illegal money, as alleged. Rather, the petitioner was merely seen sitting at a table and looking at his mobile phone in the viral video. The Enquiry Officer, therefore, conclusively held that the video did not establish any allegation against the petitioner with regard to the collection of illegal money. However, despite the aforesaid categorical finding, the Enquiry Officer proceeded to conclude that since the petitioner was the senior-most officer present at the check-post, he had failed to discharge his supervisory duties, resulting in the occurrence of the alleged incident. On that basis alone, the Enquiry Officer held that there was evidence of dereliction of duty on the part of the petitioner.

6. Learned counsel further submits that the charge



memo specifically alleged that the petitioner had received illegal gratification; however, no such charge was found proved in the enquiry. Instead, the finding ultimately recorded relates to negligence and failure to perform supervisory duties, which was never the charge framed against the petitioner. It is a settled principle of law that punishment can be imposed only with respect to the charges specifically framed in the charge memo and duly proved during the departmental enquiry. Since the allegation contained in the charge memo has not been established, the disciplinary authority could not have imposed punishment on an altogether different ground.

7. Learned counsel for the petitioner, therefore, submits that the order of the disciplinary authority imposing punishment of deduction of 10% of the petitioner's pension for a period of five years by converting the departmental proceeding into one under Rule 43(b) of the Bihar Pension Rules, 1950 (hereinafter referred to as the "Bihar Pension Rules") is wholly illegal and unsustainable in law. Accordingly, it is prayed that the impugned order of the disciplinary authority (Annexure-P/9) as well as the appellate order (Annexure-P/10) be set aside.

8. Learned counsel appearing on behalf of the State, on the other hand, submits that he agrees with the



contention advanced on behalf of the petitioner to the extent that the earlier departmental proceeding initiated pursuant to the initial charge memo was set aside and a direction was issued by the appellate authority to conduct a fresh departmental enquiry in accordance with Rules 17 and 18 of the CCA Rules, 2005.

9. Learned State Counsel further submits that a bare perusal of the fresh charge memo would make it abundantly clear that Clause 2 thereof specifically contains the following allegation against the petitioner:

“जो आपकी घोर लापरवाही, कर्तव्यहीनता, मनमानेपन, आदेशोलंघन, संदिग्ध आचरण, स्वेच्छाचारिता एवं एक अयोग्य पुलिस पदाधिकारी होने को दर्शाता है”

10. Learned counsel for the State further submits that the allegation of non-performance of duty is very much a part of the charge memo. It is submitted that although the Enquiry Officer did not find the allegation of receiving illegal gratification against the petitioner to have been proved, there is a categorical finding in the enquiry report that the petitioner, being the senior-most officer present at the check-post, failed to discharge his supervisory duties, on account of which the alleged incident took place. It is, therefore, contended that the petitioner's submission that the punishment has been imposed on



a ground different from the charge framed is wholly misconceived and unsustainable in the eye of law.

11. Learned State Counsel further submits that, since the petitioner had retired from service during the pendency of the departmental proceeding, the proceeding was rightly converted into one under Rule 43(b) of the Bihar Pension Rules, and thereafter the impugned order of punishment was passed.

12. Upon a specific query made by this Court as to whether the essential ingredients required for invoking Rule 43(b) of the Bihar Pension Rules were satisfied in the present case, learned counsel for the State fairly submits that from the order-sheet as well as the impugned orders, it does not transpire that the mandatory ingredients required for exercise of power under Rule 43(b) of the Bihar Pension Rules were either recorded or considered.

13. Having heard the learned counsel for the parties and upon careful consideration of the pleadings, the materials available on record, the enquiry report and the relevant provisions of Rule 43(b) of the Bihar Pension Rules, this Court finds that the charge memo itself contains an allegation relating to the petitioner's failure to perform his official duties. The Enquiry Officer has also recorded a categorical finding that the



petitioner failed to discharge his supervisory responsibilities. Therefore, this Court is not inclined to interfere with the findings recorded in the enquiry report merely on the ground urged by the petitioner that the punishment has been imposed on a charge different from the one contained in the charge memo. In the second show cause, the petitioner has raised series different points in his defense but the disciplinary authority have not considered his explanation in detail. More particularly, point No.9 and point No. 29 to 50 were not touched by the disciplinary authority.

14. However, it is an admitted position that the petitioner retired from service on 30.04.2023. The events giving rise to the present proceeding pertain to the year 2019. In connection therewith, Kharagpur P.S. Case No. 81 of 2019 was instituted on 16.03.2019. On the very same day, the petitioner was placed under suspension, and Departmental Proceeding No. 62 of 2019 was initiated on 07.06.2019. Although the order of punishment came to be passed on 03.08.2023, i.e., after the petitioner's retirement, the departmental proceeding was consequently converted into a proceeding under Rule 43(b) read with section 139 of the Bihar Pension Rules. The relevant provision reads as follows:



“43(b). The [Appointment authority of the post held at the time of retirement] further reserves to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period, and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government if the pensioner is found in departmental or judicial proceeding to have been guilty of grave misconduct; or to have caused pecuniary loss to Government by misconduct or negligence, during his service including service rendered on reemployment after retirement;”

Provided that.-

(a) Such departmental proceedings, if not instituted while the Government servant was on duty either before retirement or during reemployment,

(i) shall not be instituted save with the sanction of the State Government;

(ii) shall be in respect of an event which took place not more than four years before the institution of such proceedings; and

(iii) shall be conducted by such authority and in such place or places as the State Government may direct and in accordance with the procedure applicable to proceedings on which an order of dismissal from service may be made;



(b) judicial proceedings, if not instituted while the Government servant was on duty either before retirement or during re-employment, shall have been instituted in accordance with sub-clause (ii) of clause (a); and

(c) the Bihar Public Service Commission shall be consulted before final orders are passed.

139. (a) The full pension admissible under the Rules is not to be given as a matter of course, or unless the service rendered has been really approved.

(b) If the service has not been thoroughly satisfactory, the authority sanctioning the pension should make such reduction in the amount as it thinks proper.

(c) The [Appointment authority of the post held at the time of retirement] reserve to themselves the powers of revising an order relating to pension passed by subordinate authorities under the control, if they are satisfied that the service of the pensioner was not thoroughly satisfactory or that there was proof of grave misconduct on his part while in service. No such power shall however, be exercised without giving the pensioner concerned a reasonable opportunity of showing cause against the action proposed to be taken in regard to his pension, or any such power shall be exercised after the expiry of three years from the date of the order sanctioning the pension was first passed.]”

15. Upon scrutiny of the impugned order passed by the disciplinary authority as well as the appellate order, this Court is of the considered opinion that the mandatory conditions



and essential ingredients required for invoking Rule 43(b) read with section 139 of the Bihar Pension Rules are conspicuously absent in the present case. Neither the disciplinary authority nor the appellate authority has recorded any finding satisfying the jurisdictional requirements contemplated under Rule 43(b) read with section 139 of Bihar Pension Rules. In absence of such foundational findings, the deduction of pension under the said provision cannot be sustained.

16. Accordingly, the order dated 03.08.2023 passed by the Deputy Inspector General of Police, Munger Range, Munger vide Munger District Order No. 1157 of 2023 (Annexure-P/9), whereby 10% of the petitioner's pension has been directed to be deducted for a period of five years, as well as the appellate order dated 25.03.2025 passed by the Additional Director General of Police (Budget, Appeal and Welfare), Bihar, Patna (Annexure-P/10), are hereby set aside.

17. The writ petition is, accordingly, allowed.

(Dr. Anshuman, J)

Rakesh/Ashwini

AFR/NAFR	
CAV DATE	NA
Uploading Date	03/07/2026
Transmission Date	NA

