

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15503 of 2022

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Rajnish Kumar Son of Raj Karan Prasad Singh, Resident of Village-
Fulmallik, Ward No.-06, Phulmalik, District-Begusarai, Bihar-851217.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department,
Government of Bihar at Patna.
2. Deputy Inspector General, Munger Range, District-Munger.
3. Superintendent of Police, Jamui, District-Jamui.
4. Enquiry Officer-cum-Inspector, Jhajha Circle, District-Jamui.
5. Director General of Police, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sumeet Kumar Singh, Advocate
	:	Ms. Deepali Singh, Advocate
	:	Ms. Abhilasha Kumari, Advocate
	:	Mr. Anmol Kumar, Advocate
	:	Mr. Kumar Vikram, Advocate
	:	Mr. Amrendra Kumar, Advocate
	:	Mr. Raushan Kumar, Advocate
	:	Mr. Vivek Kumar, Advocate
For the State	:	Mr. Suman Kumar Jha, A.C. to AAG-3
	:	Ms. Rupali Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 18-02-2026

Heard the learned counsel for the parties.

2. The present writ petition has been filed for the
following reliefs:-

*I. That the present writ application is
being filed in the nature of Certiorari
for quashing the Memo No. 493 dated
25.02.2022 (Annexure-P/13) passed by
the Superintendent of Police, Jamui by
which the petitioner has been dismissed*



from the post of constable; on the ground that the procedure given under Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (herein after referred as "Bihar CCA Rules, 2005") specially Rule 17(14) by which the petitioner was not allowed to cross examine the witnesses, also the entire proceeding is without having the proper witness and an empty formality has been done;

II. *That the present writ application has been filed in the nature of Certiorari for quashing the Jamui District Order No. 450/2022 bearing memo no. NIL dated 24.04.2022 (Annexure-P/15) passed by the Deputy Inspector General, Munger Range, Munger by which the appeal filed by the petitioner has been dismissed and the order passed by the appointing authority has been affirmed; on the ground that despite of raising all the plea as given under Bihar CCA Rules, 2005 has not been considered and it is an empty formality done;*

III. *That the present writ application is being filed in the nature of Certiorari for quashing the enquiry report dated 28.12.2021 in District Enquiry No. 72 of 2021 by which the petitioner has found*



to be guilty on the ground that the entire enquiry, there was no opportunity being given for cross examination of the witnesses, the witnesses had only identified the signature of the concerned person, there is no proper enquiry conducted by following procedure under Bihar CCA Rules, 2005;

IV. That the present writ application is being filed in the nature of Mandamus for a direction to reinstate the petitioner on the post of Constable in the District Jamui with all consequential relief;

3. The learned counsel for the petitioner submits that the petitioner was a constable in the Bihar Police. One FIR bearing Laxmipur P.S. Case No. 193 of 2021 dated 28.06.2021 was instituted under Section 37(b)(c) of the Bihar Prohibition and Excise (Amendment) Act, 2018, against the petitioner with an allegation that the petitioner had consumed liquor and abused other fellow constables and created ruckus in the barrack. During breath analyzer test, 92.3 ml per 100 ml of alcohol was found and medical test was conducted at Laxmimpur referral hospital, where it was confirmed that the petitioner had consumed liquor and accordingly he was taken into custody. The petitioner was put under suspension w.e.f. 29.06.2021, which was subsequently revoked vide memo no. 2783 bearing Jamui



District Order No. 1117/21 dated 20.09.2021 issued under the signature of the Superintendent of Police, Jamui. Departmental proceeding was initiated against the petitioner and vide letter contained in Memo No. 3034 dated 29.10.2021 the petitioner was directed to file his show cause reply within five days. The petitioner submitted his reply wherein he denied the charges and it was specifically mentioned by the petitioner that he was prescribed medicine by the doctor on 07.04.2021 and since he had consumed the medicine, the Officer In-Charge implicated him in Laxmipur P.S. Case No. 193 of 2021. The petitioner requested the Departmental Authority to take sympathetic view against him and to exonerate him from the charges levelled against him.

4. The learned counsel for the petitioner submits that vide Memo No. 3125 dated 12.11.2021 issued under the signature of the Superintendent of Police, Jamui, memo of charge was issued wherein certain charges were levelled against the petitioner and the Presenting Officer and the Enquiry Officer were also appointed. The charge contained details of the documents and two witnesses to be relied upon by the department, during course of enquiry. Vide Memo No. 646 dated 25.11.2021 issued under the signature of the Enquiry Officer, the



petitioner was directed to file show cause reply before the Enquiry Officer. It has been contended by the learned counsel for the petitioner that even before issuance of letter dated 25.11.2021, the prosecution witness was already examined by the Enquiry Officer and during course of his examination he only identified the signature of the Superintendent of Police and apart from same, nothing was said by him with regard to the charges levelled against the petitioner.

5. The learned counsel for the petitioner further submits that even the second witness namely Subodh Kumar, who was posted as the officer in-charge of Laxmipur police station during course of examination deposed on 25.11.2021 and he too only identified the signature of the then officer in-charge of the Laxmipur police station, namely Mritunjay Kumar Pandit, who was the material witness and whose examination was relevant for arriving to any conclusion in the departmental proceeding.

6. The learned counsel for the petitioner points out that even from perusal of the evidence of the witness namely Subodh Kumar, it would transpire that the signature of the petitioner has been taken on the said documents *post facto* on 27.11.2022, which suggest that the said witness was not cross



examined by the petitioner and his examination was held behind the back of the petitioner. Subsequently, vide Memo No. 656 dated 28.11.2021 issued under the signature of the Enquiry Officer, the petitioner was directed to give second show cause reply and in compliance thereof the petitioner submitted the same, wherein he submitted that since he was suffering from chest infection and on advice of the doctor he was prescribed medicine, therefore it cannot be presumed that he was under influence of liquor. He further submitted that even the urine and blood test was never conducted and further pointed out in the show cause reply that in the memo of charge no detail and description has been given with regard to the persons who were there, while the petitioner was creating ruckus in the barrack and none of them have been examined during course of the enquiry.

7. The learned counsel for the petitioner further submits that the entire enquiry has been conducted in complete violation of the provisions contained in Rule 17(14) of the Bihar Government Servants (C.C.A.) Rules, 2005, since the petitioner has not been given any opportunity to cross-examine the witnesses, who deposed during the course of departmental enquiry and he was only provided with the copy of their statement which was recorded behind the back of the petitioner.



He further submits that even the witnesses have not deposed with regard to the charges levelled against the petitioner, but they had only identified the signature of the Superintendent of Police and the then officer in-charge. After enquiry, the Enquiry Officer submitted his report before the disciplinary authority wherein he found the charges to be proved against the petitioner. The disciplinary authority i.e. the Superintendent of Police, Jamui vide Memo No. 3469 dated 30.12.2021 directed the petitioner to submit his reply to the second show cause notice. The petitioner immediately on receipt of the notice filed his detailed reply, wherein he pointed out the deficiencies during course of enquiry and in initiation of the departmental proceeding.

8. The learned counsel for the petitioner further submitted that the Enquiry Officer without examining any witness on the charges levelled against the petitioner and without having relied on any document proceeded to submit his enquiry report, wherein he found the charges to be proved against the petitioner. The disciplinary authority vide Memo No. 493 dated 25.02.2022, without even considering the show cause reply filed by the petitioner proceeded to pass the impugned order of punishment, whereby the petitioner has been dismissed



from service. The petitioner filed statutory appeal before the appellate authority i.e. the D.I.G., Munger Range, Munger on 23.03.2022, wherein he raised various points, including non-adherence to the provisions contained in the Bihar Government Servants (C.C.A.) Rules, 2005 and the non-examination of the material witness and no opportunity to cross-examine, even the witnesses who were produced by the department. The petitioner further in his appeal stated that non-examination of the material witness and the witnesses who were examined by the Presenting Officer, prejudiced his case, since he was not given an opportunity to rebut the charges levelled against him. The petitioner also took a plea in the memo of appeal that even the medical officer, who is said to have found the petitioner to be in intoxicated condition was not examined and now the report of the doctor has been brought on record. However, the appellate authority without even considering the points raised by the petitioner in his memo of appeal, by his impugned Order No. 450 of 2022 dated 24.04.2022, rejected the appeal filed by the petitioner.

9. The learned counsel for the petitioner submits that the Enquiry Officer conducted the enquiry in a casual manner, without adhering to the provisions contained in the Bihar



Government Servants (C.C.A.) Rules, 2005, since neither the informant of Laxmipur P.S. Case No. 193 of 2021, which was the basis of initiation of departmental proceeding against the petitioner, was examined nor the doctor, who is said to have conducted the breath analyzer test upon the petitioner and found him to be in intoxicated condition, was examined. The department instead choose to examine the officer in-charge of Laxmipur, P.S., who was posted at the time when departmental enquiry was being conducted and he only identifies the signature of the informant of Laxmipur P.S. Case no. 193 of 2021. He further submits that even the breath analyzer report has not been brought on record. Neither the statement nor the persons in presence of whom the petitioner was said to have created ruckus, were examined or their evidences were brought on record. He further submits that the petitioner has even not given any opportunity to cross-examine the two witnesses, since they were examined behind the back of the petitioner and they have stated nothing, apart from proving the signatures of two persons. He further submits that the petitioner in his second show cause reply has specifically stated that no evidence of witness Mritunjay Kumar Pandit was recorded and since the evidence of Mirtunjay Kumar Pandit was not recorded, the petitioner was



denied an opportunity to cross-examine him. He further pointed out that in the show cause reply, the statement of the person, who was in the barrack with the petitioner, has been ignored although the petitioner has referred to the same and he has only been proceeded against on the basis of the First Information Report.

10. The learned counsel for the petitioner refers to and relies on a judgment dated 17.08.2021 passed by a Co-ordinate Bench of this Court in *C.W.J.C. No. 2950 of 2021 (Indubhushan Kumar vs. The State of Bihar and Ors.)* reported in (2022) 2 BLJ 26 wherein in paragraph no. 5, 8, 10 and 11 it has been held as follows:

“ 5. The learned counsel for the petitioner has submitted that the present case is a case of no evidence, inasmuch as neither the officials nor the passengers of A.C. Coach of Vibhuti Express, with whom the petitioner is alleged to have had an altercation in a drunken state, have been examined nor the informant of F.I.R. in question has been examined nor the doctor who had conducted the F.S.L. test has been examined. Moreover, it is submitted that the F.S.L. report of the blood and urine sample of the petitioner has been found to be containing zero alcohol, hence it has been proved that the petitioner had not



consumed liquor. It is submitted that in fact, a bare perusal of the inquiry report dated 03.05.2017 would show that the Inquiry Officer has also not found any evidence either regarding the petitioner having consumed any liquor or any witness having supported the allegation of altercation having taken place in between the passengers and the petitioner. Nonetheless, a perfunctory and perverse inquiry report has been submitted against the petitioner.

- 8.** *The findings recorded in a domestic enquiry can be characterised as perverse if it is shown that such findings are not supported by any evidence on record or are not based on the evidence adduced by the parties or no reasonable person could have come to those findings on the basis of that evidence. This principle was laid down by this Court in State of A.P. v. Rama Rao MANU/SC/0222/1963 : [(1964) 2 LLJ 150 : AIR 1963 SC 1723 : (1964) 3 SCR 25] in which the question was whether the High Court under Article 226 could interfere with the findings recorded at the departmental enquiry. This decision was followed in Central Bank of India Ltd. v. Prakash Chand Jain MANU/SC/0416/1968 : [(1969) 2 LLJ 377 : AIR 1969 SC 983] and Bharat Iron Works v. Bhagubhai*



Balubhai Patel [MANU/SC/0345/1975: (1976) 1 SCC 518 : 1976 SCC (L&S) 92 : 1976 Lab IC 4 : AIR 1976 SC 98 : (1976) 2 SCR 280]. In Rajinder Kumar Kindra v. Delhi Admn. [MANU/SC/0285/1984: (1984) 4 SCC 635 : 1985 SCC (L&S) 131 : AIR 1984 SC 1805 : (1985) 1 SCR 866] it was laid down that where the findings of misconduct are based on no legal evidence and the conclusion is one to which no reasonable man could come, the findings can be rejected as perverse. It was also laid down that where a quasi-judicial tribunal records findings based on no legal evidence and the findings are its mere ipse dixit or based on conjectures and surmises, the enquiry suffers from the additional infirmity of non-application of mind and stands vitiated.

- 10.** *Thus, this Court finds from the inquiry report dated 03.05.2017 that no relevant witness i.e. either the staff/officials/passengers of the train in question or the informant who had lodged the F.I.R. or the doctor who had conducted F.S.L. test have been examined and moreover, the Inquiry Officer himself, in his Inquiry report dated 03.05.2017 has not found any evidence as against the petitioner herein visa-vis the charges levelled against him, thus on the very face of it,*



the inquiry report dated 03.05.2017 is non est in the eyes of law, as such, stands vitiated, hence is quashed, especially being contrary to the law laid down by the Hon'ble Apex Court in the case of Roop Singh Negi (supra), Kuldeep Singh (supra) and Saroj Kr. Sinha (supra). Consequently, the impugned order of punishment dated 29.03.2019, passed by the Commandant, BMP-4, Dumraon, Buxar, is also quashed since the same is based on a perverse, perfunctory and an unlawful inquiry report, which has already stood quashed. Since the views expressed by the disciplinary authority in its order of punishment dated 29.03.2019 have been mechanically endorsed by the appellate authority and moreover, the order of punishment dated 29.03.2019 has already stood quashed herein above, the order dated 01.01.2020, passed by the appellate authority i.e. the Deputy Inspector General of Police, Military Police, Central Zone, Patna rejecting the appeal of the petitioner has got no legs to stand, hence is also set aside.

- 11.** *Now coming to the issue of back wages, this Court finds that since the disciplinary proceedings have been attended with malafide and since the actions of the disciplinary authority reek of a design to somehow inflict*



punishment of dismissal upon the petitioner herein, this Court deems it fit and appropriate to grant 100% back wages to the petitioner herein along with other consequential benefits as is admissible to the petitioner; in view of the law laid down by the Hon'ble Apex Court in the case of case Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya & Ors., reported in MANU/SC/0942/2013: (2013) 10 SCC 324."

11. The learned counsel for the petitioner further refers to and relies on a judgment passed by a Co-ordinate Bench of this Court on 11.09.2023 in *C.W.J.C. No. 4496 of 2023 Radheshyam Ram vs. The State of Bihar and Ors.* wherein in paragraph no. 5 and 6 it has been held as follows:

5. *The Presenting Officer, in the entire proceedings, has not placed the alleged breath analyzer report or any test report, based on which, it is alleged that the fact of petitioner being under influence of alcohol was confirmed. The Court would, therefore, record that the instant case is a case of no evidence in support of the allegation of petitioner being under influence of alcohol as it is the case of the 2nd witness also that confirmation of this fact was only by virtue of a "test", even that test report,*



however, is not to be found in the proceeding. In absence of the test report, the case would come under the purview of a case of no evidence.

*6. Insofar as the interference with the findings in a proceedings are concerned, the decision of the Apex court in the case of **Union of India & Ors. vs. P. Gunasekaran** reported in (2015) 2 SCC 610 is worth consideration in the instant case. The Hon'ble Apex Court has time and again reiterated the contours of exercise of judicial review in matters arising out of a departmental proceedings. It has been emphasized that review is confined to the decision making process and not the decision itself. Such proposition of law, however, is subject to certain exception such as where in a case the findings are perverse or founded on no evidence. In the instant case, this Court has already held that it is a case of no evidence. The order of the Superintendent of Police dated 31.08.2021 (Annexure-7) visiting the petitioner with extreme punishment of dismissal is, therefore, unsustainable in law as well in fact. The order of the*



Appellate Authority (Annexure-8) confirming such illegal order, therefore, must also collapse and is hereby quashed. This Court would also quash the order passed by the D.G.P. dated 22-08-2022, as contained in Annexure-9 to the writ petition on the memorial filed by the petitioner. The petitioner is to be reinstated forthwith and the Disciplinary Authority should proceed after the stage of service of charge memo, in accordance with law.

12. The learned counsel for the petitioner further submits that the entire departmental proceeding has been conducted in complete violation of the provisions contained in Rule 17(14) of the Bihar Government Servants (C.C.A.) Rules, 2005, since only two witnesses were examined during course of enquiry, but the petitioner was never given any opportunity to cross-examine the said witnesses and this plea has specifically been taken by the petitioner in his reply to the second show cause notice. In this regard the learned counsel for the petitioner relies on a judgment of a Co-ordinate Bench of this Court reported in 2025 (3) PLJR 547 ***Ranjan Kumar vs. The State of Bihar and Ors.***, wherein in paragraph no. 17 to 20 it has been held as follows:



“ **17.** Rule 17(14) clearly prescribes that on the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Presenting Officer and cross-examined by or on behalf of the Government Servant. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross- examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority is also empowered to put such questions to the witnesses, as it thinks fit. From the conjoint reading of all the aforementioned, *prima facie*, prescriptions of CCA Rules, 2005 it would be evident that the legislation has interfered and emphasized the obligation upon the disciplinary authority to produce the document and the witnesses of each article of charge is proposed to be sustained.

18. In the light of the statutory prescriptions noted hereinabove, now coming to the memo of charge, the copy of which is placed on record as Annexure-P/12. The list of documents contains four letters issued by different authorities. However, admittedly there is no list of witnesses. The charges in sum and substance



alleged against the delinquent with regard to dereliction of duty and laxity in investigation; and engaging in acts, which aimed at and facilitated holding the accused persons, in the opinion of this Court, cannot sustain only on documentary evidence, rather the same is to be proved by oral evidence. Moreover, even the documentary evidence, which has been produced during the course of investigation, none of the witnesses have come forward to prove the content thereof. It has rightly been urged by the learned Advocate for the petitioner that the SHO of the concerned police station was the relevant witness to prove the charge no.1, his deposition has not even been recorded. Similarly, the Superintendent of Police, Munger and the investigating officer of the questioned police station case, their depositions have not been recorded by the Conducting officer. This Court also finds substance in the submission that in the case in hand, the onus to prove the charge has been erroneously shifted to the petitioner. The Court on innumerable occasion has emphasized and underscore that a finding can be arrived at by the enquiry officer, if there is some evidence on record. The evidence must be admissible evidence and non- else.

19. *In the case of Roop Singh Negi (supra),*



the Apex Court held that mere production of a document is not enough. Contents of documentary evidence have to be proved by examining the witnesses. The Court further observed that since a departmental proceeding is a quasi judicial proceeding. The Enquiry Officer performs a quasi judicial function. The charges leveled 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. Hence, the Court finally observed that mere tendering of the documents would not suffice and the reliance placed by the Enquiry Officer on the FIR could not have been treated as evidence.

- 20.** *Similarly, in the case of Saroj Kumar Sinha (supra), the Court cautioned that even an ex-parte enquiry, it is the duty of the enquiry officer to examine the evidence presented by the department to find out whether the un rebutted evidence is sufficient to hold that the charges are proved. It would be prudent*



to encapsulate the relevant extract of the decision, which shall answer and cover the issue involved herein:

"28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the un rebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.

29. Apart from the above, by virtue of Article 311(2) of the Constitution of India the departmental enquiry had to be conducted in accordance with the rules of natural justice. It is a basic requirement of the rules



of natural justice that an employee be given a reasonable opportunity of being heard in any proceedings which may culminate in punishment being imposed on the employee."

13. The learned counsel for the petitioner further refers to and relies on a judgment of a Co-ordinate Bench of this Court dated 07.01.2025 passed in *C.W.J.C. No. 9570 of 2021 Deokant Sinha vs. The State of Bihar and Ors.*, wherein in paragraph Nos. 17 & 21 it has been held as follows:

“ 17. *It would also be relevant to take note of Rule 17(14) which obliges the Enquiry Officer that after examination of the witnesses by or Presenting Officer he or they may be cross examined or on behalf of the Government Servant.*

21. *This Court has also gone through the impugned order of dismissal as well as the appellate order. There is absolutely no consideration of the explanations submitted by the petitioner in relation to the charges levelled against him and his submission indicating various infirmities and illegalities in defiance with the provisions contained in Rule 17 of the Rules, 2005 as well as the judicial pronouncements of the Hon'ble Supreme Court. Moreover, the discussion, hereinabove, would*



*manifestly confirm that the orders impugned are based on a proceeding which suffers from multiple statutory violation where the orders put to challenge, were founded on the proceeding which defaults on the mandatory prescribed procedure, the entire proceeding stands vitiated for once the foundation on which the orders are resting is removed, the edifice built thereon has to collapse [vide; **Uday Pratap Singh** (supra)].”*

14. The learned counsel for the petitioner further relies on a judgment reported in **(2022) 4 PLJR 87 Manik Besra vs. The State Bank of India and Ors.** wherein in paragraph no. 8 it has been held as follows:

" 8. Undisputed facts are that the petitioner was subjected to parallel proceedings on alleged certain misdeeds stated to have been committed. In the criminal proceedings in view of filing of the 'B' report on 30.11.2007 and its acceptance on 27.03.2010 the criminal proceedings stands closed. In respect of disciplinary proceedings second show cause notice was issued on 26.05.2010 asking the petitioner to submit his explanation within a period of two weeks. Even though petitioner had not sought for extension of time to submit his reply beyond the time limit stipulated. However, the disciplinary



authority while passing order with reference to dated 17/26.06.2010 referred to the petitioner's reply to the second show cause notice. However, there is not even a single contention has been dealt by the disciplinary authority. No doubt, disciplinary authority need not elaborately consider each and every contention. At least, in brief, a gist of the reply to the second show cause notice was required to be considered by the disciplinary authority for the reasons that object of issuance of second show cause notice and receipt of explanation procedure would be defeated if it is not considered. Therefore, the disciplinary authority should have, in brief, examined the petitioner's reply to the second show cause notice. Therefore, there is non-application of mind by the disciplinary authority in not considering the contention of the petitioner as against second show cause notice.”

15. Per contra, the learned counsel for the State submits that the petitioner duly participated in the enquiry proceeding without any objection and now he cannot question the sanctity of the proceedings, since the departmental proceeding was conducted strictly in conformity with the provisions contained in Bihar Government Servants (C.C.A.) Rules, 2005 and the petitioner was given sufficient opportunity



to defend himself, even the two witnesses who were examined by the Enquiry Officer identified the signature of Mritunjay Kumar Pandit and the other person.

16. The learned counsel for the State further submits that the Enquiry Officer has taken note of all the relevant facts and statutory provisions as well as existing Bihar Prohibition and Excise (Amendment) Act, 2018 which prohibits consumption/transportation etc. of liquor in the State of Bihar and upon consideration of all the materials placed before him, he found the charges levelled against the petitioner to be proved and accordingly submitted his enquiry report, which is based on facts and the evidences.

17. The learned counsel for the State further submits that the petitioner appeared in the departmental proceeding and never raised any objection with regard to the manner in which the departmental proceeding was being conducted. The witnesses, who deposed before the Enquiry Officer proved the charges against the petitioner and upon conclusion of the enquiry proceeding, the Enquiry Officer came to the conclusion that all the charges against the petitioner have been found to be proved.

18. The learned counsel for the respondent-State



further submits that the order passed by the Superintendent of Police, Jamui is based on materials, which were placed before him and which were gathered by the Enquiry Officer during course of departmental proceeding and upon due consideration of the reply submitted by the petitioner and after going through the enquiry report, he proceeded to dismiss the petitioner from service, which is in conformity with the documents and evidence produced before him.

19. The learned counsel for the State finally submits that it is incorrect to submit that the defence taken by the petitioner in his second show cause notice or the grounds taken by the petitioner in his memo of appeal were not considered by the disciplinary authority or the appellate authority.

20. Having heard the learned counsel for the parties and after going through the documents available on record, this Court find that after issuance of memo of charge to the petitioner and before he was directed by the Enquiry Officer to appear before him, two of the witnesses who were named in the memo of charge, were already examined and *post facto* signature of the petitioner was obtained on the written statement of one of the witnesses namely Subodh Kumar, which goes to show that the petitioner was not given any opportunity to cross-



examine the witnesses and even the witnesses who were examined did not prove the case of the prosecution i.e. the department and only proved the signature of two persons. From the above, this Court finds that the Enquiry Officer conducted the enquiry in complete violation of the provisions contained in Rule 17(14) of the Bihar Government Servants (C.C.A.) Rules, 2005. Further it also appears that the disciplinary authority while passing the impugned order did not consider the second show cause reply filed by the petitioner, since nowhere any consideration has been made with regard to the defence taken by the petitioner in his second show cause reply, although it was required to be considered, since the petitioner in his second show cause reply has taken a plea that the Enquiry Officer has violated the provisions contained in Rule 17(14) of Bihar Government Servant (C.C.A.) Rules, 2005 and he was never given any opportunity to cross-examine the informant or even the witnesses who proved the signatures. Further, the appellate authority also did not take into account the defence taken by the petitioner in his memo of appeal and he, in a mechanical manner proceeded to reject the appeal preferred by the petitioner and no consideration has been made in his order dated 24.04.2022 with regard to the defence taken by the petitioner in his memo of



appeal.

21. This Court further finds that the informant of the criminal case was not examined to prove the case, which denied an opportunity to the petitioner to cross-examine him, to prove his innocence. Not a single witness was examined by the prosecution who were present at the time, when the petitioner is said to have created ruckus in intoxicated condition in the barrack. Even the doctor who examined the petitioner, was not examined and the blood and urine sample were not collected or report of the same was produced.

22. Accordingly, on the basis of consideration made above, the impugned order contained in Memo No. 493 dated 25.02.2022 passed by the Superintendent of Police, Jamui, the appellate order contained in Jamui District Order No. 450 of 2022 dated 24.04.2022 issued under the signature of the D.I.G., Munger Range, Munger, the letter no. 66 dated 02.02.2024 issued under the signature of the Director General of Police, Bihar, Patna, by which the memorial preferred by the petitioner has been rejected and the enquiry report no. 72 of 2021 dated 28.12.2021 deserves to be set aside and are accordingly set aside.

23. The matter is remitted back to the



Superintendent of Police, Jamui to proceed afresh from the stage of issuance of memo of charge itself after giving due opportunity to the petitioner to participate in the proceeding. The entire exercise must be completed within a period of six months from the date of receipt/production of a copy of the order. If the disciplinary authority finds the petitioner to be not guilty, then the petitioner would be entitled for all the consequential benefits.

24. With the aforementioned observations and directions, the writ petition is allowed.

25. Pending applications, if any, shall also stands disposed of.

(Ritesh Kumar, J)

Abhishek
Ajay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.03.2026
Transmission Date	NA

