

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.467 of 2022

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Saroj Kumar Roi Son of Late Krishna Kumar Ray Resident of Bhojpur, P.s.- Tarabari, District- Araria, then Posted as a Clerk-cum- Deputy Superintendent, Mandal Kara (Jail), Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Additional Chief Secretary, Home Department, (Jail and Reform Services Directorate), Government of Bihar, Patna.
2. The Additional Chief Secretary, Home Department, (Jail and Reform Services Directorate), Government of Bihar, Patna.
3. The Inspector General Jail and Reform Services Inspectorate, Government of Bihar, Patna.
4. The Special Work Officer Jail and Reform Services, Bihar, Patna.
5. The Superintendent, Special Central Jail, Bhagalpur-cum- Conducting Officer Departmental Proceeding.
6. The Circle Superintendent Central Jail, Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kumar, Advocate
For the Respondent/s : Mr. Amish Kumar, A.C. to AG

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

9 23-03-2026 1. Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner has filed the instant application for
the following reliefs:

*“1. For quashing the order dated 08.01.2019
passed by The Additional Chief Secretary, Home
Department (Jail & Reform Services
Directorate), Government of Bihar, Patna
(respondent No.2) in Service Appeal filed by the
petitioner, same was communicated vide Memo*



No.206 dated 08.01.2019, whereby respondent No.2 has rejected the appeal filed by the petitioner and affirmed order dated 21.08.2018 passed in Memo No. 5961.

II. For further to quashed the punishment order held against the petitioner order vide Memo No. 5961 dated 21.08.2018 passed in by the Inspector General, Jail & Reform Services Inspectorate, Government of Bihar, Patna (respondent No.3) whereby the petitioner has been inflicted with punishment of blasphemy and allocation of salary by deducting an amount equivalent to two increment (Vetan Bridhi) in common pay has been withheld with non-cumulative effect.

III For further direction to pay rest salary of the petitioner, which was deducted under punishment order dated 21.08.2018 passed in Memo No. 5961.

IV. Also for any other relief/reliefs for which the petitioner is entitled in the facts and circumstances of the case.”

3. The case of the petitioner in brief is that at the relevant time when the petitioner was posted and working as Clerk-cum-Deputy Superintendent of Mandalkara (Jail), Supaul, on one of the prisoners having committed suicide by hanging himself in the cell, the petitioner was proceeded against in a departmental proceeding by serving on him the memo of



charge dated 25.10.2017 (Annexure-1). The petitioner filed his written defence and the proceeding commenced. The Conducting Officer submitted an inquiry report dated 11.4.2018 (Annexure-3) finding the 1st part of the charge no. 2 to have been proved while the other charges were not proved. The petitioner received a copy of the inquiry report to which he was unable to file his reply on account of illness.

4. The respondents came out with the order of punishment dated 21.8.2018 under the signature of the Inspector General, Jail and Reform Services, Government of Bihar, imposing the punishment of a censure and stoppage of two annual increments with non-cumulative effect. Further, the appeal preferred by the petitioner was rejected vide order dated 8.1.2019 passed by the Additional Chief Secretary, Home Department (Jail and Reform Services Directorate), Government of Bihar. It is against these two orders dated 21.8.2018 and 8.1.2019 that the instant application has been preferred.

5. It is submitted by learned counsel for the petitioner that though the petitioner has several points to contend, on perusal of the inquiry report it would transpire that not a single witness was examined nor any witness proved any



document. Consequently, the inquiry report does not refer to any of the witness nor any document in support of the charges having been proved against the petitioner. The order of punishment as also the order passed in appeal thus are not sustainable in view of the judgment of the Hon'ble Supreme Court in the case of Roop Singh Negi vs Punjab National Bank; (2009) 2 SCC 570.

6. In response, it is submitted by learned counsel for the respondents that there is no illegality, procedural or otherwise, in conducting the departmental proceeding and the scope of judicial review in cases arising out of departmental proceedings are very limited. Reference is made to the judgments of the Hon'ble Supreme Court in the case of the State of Karnataka & Anr. Versus N. Gangaraj; (2020) 3 SCC 423 and High Court of Judicature at Bombay through its Registrar versus Shashikant S. Patil & Anr.; (2000) 1 SCC 416. Learned counsel further submits that the order passed in appeal in the year 2019 having been challenged three years later in the year 2022, the same is fit to be rejected on ground of delay and laches. Reliance is placed on the judgment of the Hon'ble Supreme Court in the case of Chennai Metropolitan Water Supply & Sewerage Board & Ors. Versus T.T. Murali Babu;



(2014) 4 SCC 108.

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

8. Bereft of unnecessary details, it may be observed here that there is no dispute so far as the law limiting the scope of judicial review in matters of departmental proceedings is concerned. It has consistently been held that under the judicial review what may be looked into by the Court is only as to whether the proceedings were held by a competent officer, in accordance with the rules and regulations applicable. The Court in exercise of its power does not act as an Appellate Authority to appreciate the evidence, but may only interfere in case there has been any violation of the statutory rules prescribing the mode of inquiry.

9. It is also not in dispute that the management is required to lead evidence in course of the departmental proceeding by oral evidence to prove the charges.

10. The Hon'ble Supreme Court in the case of **Roop Singh Negi vs Punjab National Bank; (2009) 2 SCC 570** held as follows:

“23. Furthermore, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed



by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the criminal court on the basis of selfsame evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the enquiry officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof.”

11. Further a Division Bench of this Court in the case of **Devendra Prasad vs. The State of Bihar & Ors.** (judgment dated 19.10.2023 passed in LPA no.1302 of 2017), following **Roop Singh Negi** (supra) observed as follows:-

"7. As has been held in Roop Singh Negi v. Punjab National Bank and others; (2009) 2 SCC 570, the documents produced in a departmental inquiry has to be proved by examining witnesses.



Even an F.I.R. was held to be not evidence by itself without actual proof of facts stated therein. The Hon'ble Supreme Court had also held that even an admission or confession to the police itself is not sufficient to find the delinquent employee guilty in a departmental proceeding if no evidence is brought on record to prove the offence or misconduct alleged. Departmental inquiry was held to be a quasi-judicial proceeding and the Inquiry Officer functions in the status of a quasi-judicial authority. Not only should evidence be led in a departmental inquiry, the conclusions arrived at should be based on evidence which brings forth a probability that the delinquent has committed the misconduct alleged and charged against him. No Inquiry Report based on conjectures and surmises can be sustained and even in a departmental inquiry, the standard of proof is not a mere suspicion. However high the degree of suspicion is, it cannot be a substitute for legal proof."

12. On perusal of the contents of the inquiry report brought on record as Annexure-3 to the writ application, it transpires that neither the evidence of any witness whatsoever has been dealt with nor has it been stated that any documentary evidence lead to substantiate the charges was proved in course of the inquiry.



13. Thus in the opinion of the Court, the Conducting Officer having proceeded to submit the inquiry report without any oral or documentary evidence lead in course of the departmental proceeding, as held in the case of Roop Singh Negi (supra), this clearly is a case of no evidence against the petitioner.

14. In view of the facts and circumstances stated herein above, neither the order of punishment dated 21.8.2018 nor the order rejecting the petitioner's appeal dated 8.1.2019 can be sustained.

15. The orders of punishment dated 21.8.2019 passed by the Inspector General, Jail and Reform Services, Government of Bihar, and also the order rejecting the appeal dated 8.1.2019 passed by the Additional Chief Secretary, Home Department (Jail and Reform Services), Government of Bihar, being not sustainable are both hereby set aside.

16. The writ application is allowed with all consequential benefits.

(Partha Sarthy, J)

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