

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.407 of 2022

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Indrajeet Kumar Son of Late R.N. Ram resident of Jai Mahabir Colony,
Sandalpur, Road No. 5, Police Station Bahadurpur, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Vishwesharaiya Bhawan, Bailey Road, Patna.
2. The Joint Secretary, Road Construction Department, Vishwesharaiya Bhawan, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rupak Kumar, Advocate
For the Respondent/s : Mr. Amit Prakash, GP-13

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

C.A.V. JUDGMENT

Date : 22-06-2026

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

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

*“1. That this writ application is filed
for issuance of writ in the nature of certiorari for
quashment of notification no.3883 (s) dated
05.08.2021 read with notification memo no.3884
(s) dated 06.08.2021 issued over the signature of
the Joint Secretary, Road Construction
Department, Bihar, Patna whereby punishment
of withholding of one increment with cumulative
effect has been inflicted upon the petitioner on
the basis of the recommendation of Technical*



Committee dated 11.07.2014 by the Disciplinary authority without applying its independent mind in differing with the findings of the enquiry Officer.

A copy of notification dated 05.08.2021 is annexed herewith and marked as Annexure-P1 to this writ application.”

3. The case of the petitioner in brief is that on the charges relating to the period 2006-07 when the petitioner was posted as Executive Engineer, Road Division, Samastipur, the petitioner was proceeded against in a departmental proceeding which ended in an order of punishment being passed against him of withholding of two annual increments with cumulative effect. The said order of punishment dated 15.5.2015 was challenged by the petitioner in C.W.J.C. no. 803 of 2016.

4. By order dated 4.1.2019 passed in C.W.J.C. no. 803 of 2016, taking into consideration that contrary to the provisions contained in Rule 18 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 ('CCA Rules' in short) and that the consideration of the enquiry report was not done by the Disciplinary Authority but by a Technical Committee which was not contemplated as per Rule 18 of the CCA Rules, the writ application was allowed by this Court quashing both the second show cause notice dated



9.12.2014 as also the consequential order of punishment dated 15.5.2015. However, liberty was granted to the respondents to proceed against the petitioner from the stage of second show cause by the Disciplinary Authority in accordance with law.

5. It is submitted by learned counsel for the petitioner that pursuant to the leave granted by order dated 4.1.2019 passed by this Court, the petitioner was served with a second show cause notice dated 30.7.2019 (Annexure-P/9) to which the petitioner replied. The respondents came out with the order dated 5.8.2021 under the signature of the Joint Secretary, Road Construction Department, Bihar, Patna, inflicting the punishment of stoppage of one annual increment with cumulative effect. It is against this order that the petitioner has preferred the instant writ application.

6. Learned counsel for the petitioner submits that while allowing C.W.J.C. no. 803 of 2016 by its order dated 4.1.2019, this Court had specifically observed that in accepting the report/recommendation of the Technical Committee, there was no independent disagreement of the Disciplinary Authority with the findings of the Enquiry Officer by assigning any independent reason on the basis of the evidence/material brought on record in the proceedings. It was in such



circumstances that the matter had been remanded back to the Disciplinary Authority to proceed from the stage of the second show cause. However, on remand, as would be evident from the contents of the second show cause notice dated 30.7.2019 and more particularly paragraph nos. (i), (ii), (iii) and (iv) thereof, it would transpire that the same are identical and verbatim copies of the recommendations of the Technical Committee (Annexure-P/3) which was the basis for setting aside the second show cause notice by this Court. It is thus submitted that once again, on the face of the record, there has been no independent application of mind by the Disciplinary Authority. As such the second show cause notice as also the subsequent order of punishment passed by the respondents cannot be sustained and both be set aside.

7. The application is opposed by learned counsel for the respondents. It is submitted that so far as the earlier order of punishment is concerned, though the same was set aside by order dated 4.1.2019 passed by this Court in C.W.J.C. no. 803 of 2016, however liberty was granted to the respondents to proceed against the petitioner from the stage of the second show cause notice. It is submitted that in compliance thereof, a second show cause notice was issued to the petitioner on 30.7.2019 and after considering the reply filed by the petitioner that the order of



punishment has been passed against him. No procedural irregularity has been pointed out by the petitioner. So far as the contention of the petitioner with respect to the similarity in the recommendation of the Technical Committee and the contents of the second show cause notice dated 30.7.2019 is concerned, learned counsel for the respondents submits that facts being identical relating to the same event, the contents may be said to be similar but are not verbatim copies. The Disciplinary Authority applied his independent mind and has issued the second show cause notice in accordance with law. The petitioner has not made out a case for interference in the order of punishment by this Court. There is no merit in the writ application and the same be dismissed.

8. Heard learned counsel for the petitioner and learned counsel for the respondents.

9. Bereft of unnecessary details, it may be mentioned here that on an earlier occasion, an order of punishment contained in memo no.4235(s) dated 15.5.2015 was passed by the respondents against the petitioner withholding two annual increments with cumulative effect. The said order came to be challenged by the petitioner in CWJC no.803 of 2016. The writ application was allowed by order dated 4.1.2019 and both the



second show cause notice dated 9.12.2014 as well as the consequential order of punishment dated 15.5.2015 were set aside.

10. At this stage, it would be relevant to reproduce relevant portions of the order dated 4.1.2019 passed in CWJC no.803 of 2016 which would show the ground on which the said writ application was allowed. The same is quoted herein below:

“16. As regards other submission advanced by the petitioner’s counsel regarding validity of the Technical Committee to appreciate the findings of the Enquiry Officer; this Court would observe that no response has been given by the State to the Court’s specific query raised in the earlier order dated 16.1.2018. The Bihar CCA Rules, 2005 provides the procedure for conducting departmental proceedings. Nowhere does it conceive of constitution of any Technical Committee to appreciate the findings of the Enquiry Officer. As is manifest from the file notings contained in Annexure 12, even the departmental minister criticized the constitution of Technical Committee to appreciate the findings of the Enquiry Officer. That apart it is a trite law based on the provisions contained in Rule 18 of the Bihar CCA Rules, 2005 that consideration of the Enquiry Officer has to be done by the Disciplinary Authority and not by any Technical Committee. Rule 18 of the Bihar CCA Rules, 2005 provides for action on the enquiry report. Discretion to agree or disagree with the findings of the Enquiry is with the Disciplinary Authority. But the discretion as to be exercised in the manner prescribed



under Rule 18 of the Bihar CCA Rules, 2005. Constitution of Technical Committee as has been done in the instant case is not contemplated in Rule 18 of the Bihar CCA Rules, 2005. There is no independent disagreement of the Disciplinary Authority with the findings of the Enquiry Officer by assigning any independent reason on basis of evidence/material brought on record in the proceedings on preponderance of probability. In the circumstances, the second show cause notice dated 9.12.2014 issued by the Disciplinary Authority communicating disagreement of the Technical Committee is not sustainable as the same is apart from being based on extraneous consideration, also contrary to the procedure prescribed under Rule 18 of the Bihar CCA Rules, 2005. That being so, this Court would quash the second show cause notice dated 9.12.2014 as well as consequential order of punishment dated 15.5.2015 arising out of and as a result of such illegal procedure.

17. In view of quashing of the second show cause dated 9.12.2014 and the order of punishment dated 15.5.2015 this Court would observe that the petitioner is entitled to be reinstated in service forthwith along with all consequential benefits.

18. This order however will not preclude the respondent authorities from proceeding against the petitioner from the stage of second show cause by the Disciplinary Authority, in accordance with law.

19. The writ petition is allowed in the aforesaid terms.”

11. On perusal of the above quoted portion of the order dated 4.1.2019, it would transpire that this Court had



taken note of the fact that after submission of the enquiry report, instead of the disciplinary authority considering the report of the enquiry officer, contrary to Rule 18 of the CCA Rules, a technical committee was constituted to appreciate the finding of the enquiry officer. This procedure being unknown to and in violation of the provisions contained in Rule 18 of the CCA Rules, the second show cause notice as also the order of punishment were both set aside and the writ application was allowed, however with liberty to the respondents to proceed against the petitioner from the stage of the second show cause notice by the disciplinary authority.

12. It is pursuant to the liberty granted in the order dated 4.1.2019 by this Court that the petitioner was again served with the second show cause notice dated 30.7.2019 by the disciplinary authority/Director, Road Construction Department, Government of Bihar asking the petitioner to file his reply to the same within 15 days.

13. It may be mentioned here that the notice dated 30.7.2019 gives four grounds mentioned as (i), (ii), (iii) and (iv) on which the disciplinary authority differs with the report of the enquiry officer.

14. As submitted by learned counsel for the petitioner



as is also evident from the order dated 4.1.2019, a technical committee had been constituted which had looked into the findings/report of the enquiry officer. The said recommendation of the technical committee is available on record and more particularly contained in column no.5 of the report of the technical committee at Annexure P/3 to the writ application.

15. On perusal of the material on record, this Court finds that the contents of the second show cause notice dated 30.7.2019 issued to the petitioner as contained in (i) to (iv) therein and the recommendation of the technical committee as contained in Annexure P/3 are identical and verbatim copy of each other. It was on this ground, that there is no provision for constitution of a technical committee to appreciate the contents of the enquiry officer and which had to be done independently by the disciplinary authority in view of the provisions contained in Rule 18 of the CCA Rules that the writ application (CWJC no.803 of 2016) had been allowed. The respondents have repeated the same error herein.

16. In view of the facts and circumstances of the case as stated herein above, neither the second show cause notice dated 30.7.2019 nor the order of punishment dated 5.8.2021 (Annexure P/1) can be sustained.



17. The order of punishment contained in notification no. 3883(s) Patna dated 5.8.2021 issued under the signature of the Joint Secretary, Road Construction Department, Bihar Patna is hereby set aside.

18. The writ application is allowed.

(Partha Sarthy, J)

Saurabh/Saurav

AFR/NAFR	NAFR
CAV DATE	14.05.2026
Uploading Date	22.06.2026
Transmission Date	N/A

