

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5734 of 2017

Dr. Amrendra Kumar Aman Son of Late Lal Chand Ram, Resident of Village-
Barawa, P.S.- Asaw, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. The Joint Secretary, Health Department, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dinu Kumar, Advocate Mr. Vardaan Mangalam, Advocate Mrs. Ritika Rani, Advocate
For the Respondent/s	:	Mr. Rajeshwar Singh- GA10

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 16-02-2026 Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner has filed the instant application for
the following relief(s):

*“A. For quashing the office order vide memo
no.1307 (9) dated 8.12.2016 issued under the signature
of under Secretary to the Government by the order of
the Hon'ble Governor as contained in Annexure-17 by
which petitioner has been punished in departmental
proceeding as follows-(i) three increments have been
withheld with cumulative effect and (ii) petitioner shall
not be paid anything save and except the subsistence
allowance for the period of suspension.*

*B. Also for commanding the respondents to
make payment of salary and other consequential
benefits which has not been paid after punishment order*



passed on 8.12.2016 and earlier punishment order passed on 4.7.2003 as contained in Annexure-5 to the writ petition which was also affirmed by the appellate authority on 1.12.2007 as contained in Annexure-7 to the writ petition even after setting aside the punishment order passed by the Hon'ble High Court Patna in CWJC No.9283 of 2004 on 2.12.2010 as contained in Annexure-12.

C. And also for any other relief or reliefs for which the petitioner is found entitled in the eye of law.

D. For quashing the office order vide memo no. 452 dated 02.05.2017 issued under the signature of the Secretary to the Government Health Department, Government of Bihar by the order of Governor Health Department by which punishment order dated 08.12.2016 as contained in Annexure-17 has been amended to the extent punishment of censor has also been included the besides to punishment which was also corporate in the Annexure-17.

E. Also for directing to the respondents to not give order dated 02.05.2017 as contained in Annexure-18.

F. And also for necessary relief/reliefs order/orders direction/directions in which the petitioner is entitled in the eye of law.”

3. The case of the petitioner in brief is that the petitioner who was posted as the District Malaria Officer in Gaya was proceeded against in a departmental proceeding for his unauthorised absence from duty, carelessness and not participating in the monthly meeting. The proceeding ended in



an order of punishment being passed against the petitioner on 4.7.2003 which the petitioner challenged by filing CWJC no.9283 of 2004. The writ application (CWJC no.9283 of 2004) was allowed by order dated 2.12.2010 quashing Annexure-5 and Annexure-11, orders impugned therein. The department was granted the liberty to initiate fresh proceedings from the stage of holding a fresh enquiry into the matter if it thinks fit and proper, keeping in mind that the occurrence took place in the year 1999 and charges were framed in the year 2001.

4. It is submitted by learned counsel appearing for the petitioner that though liberty was granted to the respondents to proceed afresh from the stage of holding a fresh enquiry nevertheless the respondents came out with a resolution dated 20.1.2012, proceeding afresh against the petitioner under the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 ('CCA Rules' in short). A memo of charge which has been brought on record at page 70 was served on the petitioner, perusal of which would show that the charges related to the year 1999. The enquiry proceeded and the Conducting Officer submitted an enquiry report dated 30.6.2015, a copy of which was provided to the petitioner on 13.11.2015. The petitioner filed a reply to the same on which the respondents



came out with an order of punishment dated 8.12.2016. Subsequently, the respondents came out with a modified order of punishment dated 2.5.2017 imposing the punishment of (i) censure (ii) stoppage of three increments with non-cumulative effect and (iii) no other amount would be payable for the period of suspension except the subsistence allowance.

5. It is submitted by learned counsel for the petitioner that a perusal of the enquiry report which is Annexure-15 to the writ application would show that not a single witness was examined on behalf of the respondents in support of the charges and consequently neither any document was exhibited nor proved in course of the proceedings, no witness having been examined. This fact of no witness having been examined besides being borne out from the contents of the enquiry report is not contested by learned counsel for the respondents.

6. Submissions have been made on behalf of the respondents on the merits of the case with prayer of dismissing the instant writ application.

7. Having heard learned counsel for the parties and taking into consideration the submissions made on behalf of the petitioner specially no witness having been examined nor any document having been exhibited or proved in course of enquiry,



the proceeding itself is in teeth of the judgment of the Hon'ble Supreme Court in the case of *Roop Singh Negi vs. Punjab National Bank; (2009) 2 SCC 570*.

8. Consequently, the order of punishment passed on such an enquiry report is not sustainable. Similarly the order passed rejecting the appeal preferred by the petitioner is also fit to be set aside on this ground alone.

9. Taking into consideration the facts and circumstances of the case, both the orders of punishment contained in Memo no.1307(9) dated 8.2.2016 under the signature of the Under Secretary, Health Department, Government of Bihar as also the modified order of punishment contained in Memo no.452(9) dated 2.5.2017 issued under the signature of the Under Secretary, Health Department, Government of Bihar are both set aside.

10. The writ application is allowed with all consequential benefits which shall be paid by the respondents within a period of three months from the date of receipt/production of a copy of this order.

(Partha Sarthy, J)

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