

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.361 of 2025

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Shambhu Prasad S/o Late Devi Lal, Resident of 3E Sakaar Palm Greens Apt,
Mainpura Danapur Nizamat, Vaishali Gas Agency, Saguna More, P.O. and
P.S.- Danapur, Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
3. The Engineer-In-Chief, Flood Control and Drainage, Water Resources Department, Government of Bihar, Patna.
4. The Additional Secretary, Water Resources Department, Government of Bihar, Patna.
5. The Deputy Secretary, Water Resources Department, Government of Bihar, Patna.
6. The Joint Secretary, Management, Water Resources Department, Government of Bihar, Patna.
7. The Chief Engineer, Irrigation Creation, Water Resources Department, Darbhanga.
8. The Chief Engineer, Flood Control and Water Drainage, Water Resources Department, Muzaffarpur.
9. The Superintending Engineer, Design, Planning and Monitoring Circle, Darbhanga.
10. The Executive Engineer, Planning and Monitoring Division, Darbhanga.
11. The Accountant General Bihar, Birchand Patel Path, Patna.
12. The Treasury Officer, Patna.
13. The Secretary, Bihar Public Service Commission, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Alok Ranjan, Adv.
For the Respondent/s : Mr.Government Pleader (18)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 23-03-2026

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

2. The present writ petition has been filed for



quashing the Notification No.2039 dated 25.10.2024 issued by the Deputy Secretary by which the punishment has been imposed against the petitioner for withholding of 20% of pension for three years. Further prayer has been made for quashing the letter No.2556 dated 08.11.2022 by which the second show-cause notice has been issued against the petitioner by which inspite of the fact that inquiry officer appointed by the Departmental Authorities, on the basis of material available on record, petitioner was not found guilty from the charges levelled against him. Third prayer has been made for quashing the show-cause notice (Prapatra- Ka) as contained in resolution No.1129 dated 07.06.2019. Further prayer has been made to quash the entire departmental proceeding conducted against the petitioner on account of illegal order with direction to make payment of entire amount of pension along with statutory interest @ 18 % per annum along with any other consequential benefits for which the petitioner is entitled.

3. Learned counsel for the petitioner submits that in the year 2017, the petitioner was posted as Assistant Engineer, Bagmati, Sub-Division-3, Sheohar (Bagmati Right Bank 45.3 – 52.92 KM) and was given extra additional charge of Bagmati Sub-Division Piprahi (Bagmati Right Bank 15.240 –



32.705 KM), Bagmati Sub-Division No.1, Sheohar (32.705 – 38.825 KM) and also extra additional incharge of Flood Control Cell during that period.

4. Counsel further submits that Prapatra-Ka has been issued against the petitioner vide letter No.2019 dated 15.11.2017, in which certain charges were levelled against the petitioner. He further submits that soon after receiving the show-cause notice, the petitioner has filed his reply with all materials, but he was very surprised that after about one and half year, the department has issued another Resolution No.1129 dated 07.06.2019 by which another Prapatra-Ka has been issued against the petitioner and they had decided to initiate departmental proceeding against the petitioner.

5. Counsel further submits that memo of charge was vague and some of the charges were substituted with pre-determined mind. He further submits that after six months of the proceeding, the department has appointed new Conducting Officer on 30.12.2019 who has submitted inquiry report on 13.01.2020 and found not guilty and in this regard, submitted report vide letter No.53 dated 16.03.2020. He further submits that after about two years 8 months, another letter was issued on 08.11.2022 by which the Disciplinary Authority was differing



from the report submitted by the Inquiry Officer directed to take steps for examination and cross-examination.

6. Counsel further submits that after second inquiry report, the petitioner was served second show-cause in which report of the second Inquiry Officer was submitted. He further submits that in the second show-cause dated 08.11.2022, the Disciplinary Authority has directed to file second show-cause differing from the second inquiry report dated 23.08.2022.

7. Counsel further submits that in compliance of the second show-cause, the petitioner has filed reply to the same on 01.12.2022 in which he has taken all the points, but thereafter, the Disciplinary Authority has passed final order contained in Notification No.2039 dated 25.10.2024 in which he has been imposed punishment of deduction of 20% of pension for 3 years as during the pendency of the departmental proceeding, the petitioner was retired.

8. Counsel further submits that the decision of issuance of second show-cause even after his exoneration from two inquiry reports, is absolutely bad in law. He further submits that the second show-cause dated 08.11.2022 is also bad in law due to the reason that the letter No.1281 dated 27.09.2017 does not contain anything, which has been alleged in the second



show-cause. He further submits that none of his points were considered in the final order and the Disciplinary Authority at the time of passing final order, has only stated that no new fact has been submitted, therefore, his second show-cause has been rejected and imposed punishment upon him. He further submits that it is a gross violation of natural justice as well as violation of the rule established under Bihar CCA Rules, 2005. He also submits that the issuance of show-cause differing from the inquiry report is also in violation of the rule laid down. He further submits that not only this rather for the same wrong, the Junior Engineer, Assistant Engineer and Executive Engineer all were subjected to the departmental proceeding. He further submits that in the departmental proceeding, the punishment imposed upon Junior Engineer and Executive Engineer was only 10% deduction of pension for one year, but for the petitioner who was working as Assistant Engineer, imposed punishment of deduction of 20% of pension for 3 years, reasons best known to the Disciplinary Authority. He further submits that the parity has also not been maintained.

9. In support of his argument, counsel for the petitioner relied on judgment of this Hon'ble Court reported in the case of **Ganesh Prasad Yadav Vs. The State of Bihar &**



Ors. reported in **2026(2) PLJR 170** and submits that the disciplinary proceeding being quasi-judicial in nature, it is incumbent upon the disciplinary authority to record reasons and to indicate as to why the explanation or reply submitted by the delinquent officer has been rejected, as on this ground, this Hon'ble Court in the case of **Ganesh Prasad Yadav** (supra) has set aside the order passed by the authorities and ensure payment of admissible retiral dues to petitioner.

10. Counsel further relied in the case of **Roop Singh Negi Vs. Punjab National Bank** reported in **2009(2) SCC 570**, in which it has been categorically held that mere production of documents without examination of witnesses would not be valid evidence.

11. Counsel for the petitioner further submits that here in the present case, there is no ingredients of Section 43B of the Bihar Pension Rule, 1950 as for the purpose of applicability of Section 43B of the Bihar Pension Rules, 1950, he has to show two ingredients.

12. Learned counsel for the State, on the other hand, submits that the entire departmental proceeding has been done completely in accordance with law and there is no violation of any norms established. He further submits that



under the Bihar CCA Rules, 2005, it is well-within the power of the Disciplinary Authority to remand the matter before the Inquiry Authority, if the Disciplinary Authority is dissatisfied from the inquiry report. Therefore, he submits that referring the matter before the inquiry authority for taking evidence, examination and cross-examination, is completely in accordance with law and there is no illegality in the same. He further submits that under the Bihar CCA Rules, 2005, it is well-within the power of the Disciplinary Authority that he may vary upon receiving of the report of the Inquiry Authority under Rule 17(23) of the Bihar CCA Rules, 2005 and the only restriction casted upon him at the time of differing from the inquiry report, he has to assign the reason in the second show-cause.

13. Counsel further submits that in the second show-cause on which the petitioner submits that the show-cause is bad, is basically a Letter dated 08.11.2022. He further submits that in the said letter, the Disciplinary Authority has categorically mentioned that he is partially dissatisfied from the opinion of the Inquiry Officer and on the point of dissatisfaction, he has referred Letter No.1281 dated 27.09.2017. He also submits that the content of the letter has also been quoted in the show-cause. He further submits that the



said letter has already been served with the charge memo to the counsel for the petitioner. Therefore, he submits that once the letter has been placed before him, then in that case, onus is upon him to produce the said letter before the Court.

14. Counsel for the State further submits that from the order impugned *i.e.*, the order of punishment, particularly Annexure-P/8 of the writ petition, whatever the points mentioned by the delinquent/petitioner has been taken into consideration and all those points were separately analyzed in the said order and only thereafter, the final order has been passed.

15. Counsel for the petitioner on this point submits that for the same wrong, the departmental proceeding has been initiated against the Junior Engineer, Assistant Engineer and Executive Engineer, but different punishment has been imposed upon them. The punishment for Junior Engineer and Executive Engineer was only 10% deduction of pension for one year, but for the Assistant Engineer (petitioner) who was imposed deduction of 20% of pension for 3 years. On this point, he kept mum at present because there is no response of the State in the counter-affidavit.

16. Upon hearing the parties, particularly, on the



point that there were two charge memos issued against the petitioner. This Court is of the opinion that under Bihar CCA Rules, 2005, there is no bar that more than one charge memo can be issued against any of the delinquent. This Court is also of the view that it is well-within the power of the disciplinary authority that if the Disciplinary Authority is dissatisfied with the inquiry report then, he can direct the Inquiry Authority to take further inquiry on the deficiency pointed out. It is also well-within the power of the Disciplinary Authority that he may remand back the matter before the same Inquiry Authority or another Inquiry Authority. But at the time of taking decision on the issuance of show-cause, the Disciplinary Authority upon receiving the report under Rule 17(23) of the Bihar CCA Rules, 2005 has to record its reason if the Disciplinary Authority disagrees with the finding of the inquiry authority on any article of charge.

17. Upon perusal of the issuance of show-cause, it transpires to this Court that the Disciplinary Authority has assigned the show-cause, therefore, this Court is of the firm view that differing from the inquiry report by the Disciplinary Authority with the reasoning is well-within law. From the record, it also transpires that the delinquent has filed a detailed



reply of the second show-cause. From the order, it has categorically been mentioned in the final order that each and every point were firstly placed by the authority in the order sheet and thereafter, every point was meticulously examined by him and then only, order has been passed. Therefore, this Court is of the firm view that there is no question of non-consideration of the points mentioned in the second show-cause by the delinquent.

18. But so far as the parity at the time of imposing punishment is concerned, this Court totally agrees on the argument made by the counsel for the petitioner that for the same wrong, with same set of allegation, departmental proceeding has been initiated against all three Engineers, but in the punishment order, the Junior Engineer and the Executive Engineer were imposed punishment of only 10% deduction of pension for one year, but the petitioner (Assistant Engineer) was imposed punishment of deduction of 20% of pension for three years. This Court only on these points *i.e.*, exorbitant punishment has been made and parity has not been maintained, hereby interfered and set aside the punishment part only and directs that such imposition of punishment is exorbitant and not maintaining the parity. Therefore, with a view to maintain parity,



let the punishment of 20% deduction of pension for 3 years is hereby reduced to deduction of 10% pension for one year only and hence, the present writ petition is hereby disposed of.

19. On the point of applicability of Section 43B of the Bihar Pension Rules, 1950, it transpires to this Court that decision for initiation of proceeding under Section 43B of the Bihar Pension Rule, 1950, has not been challenged therefore, this point is not available to the petitioner.

20. With the aforesaid observations, the present writ petition stands disposed off.

(Dr. Anshuman, J)

Prakashmani/-

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

