

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.684 of 2025

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Ram Babu Verma S/o Rajeshwar Prasad Verma, R/o Vill- Ahiyapur, P.S.-
Bikram, Dist.- Patna (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Bihar, Patna.
2. The Divisional Commissioner, Patna Division, Patna.
3. District Magistrate, Patna.
4. Additional District Magistrate, Patna.
5. Sub Divisional Officer, Danapur, Patna (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Atul Dayal, Advocate
For the Respondent/s : Mr. Dheerjati Kumar Prasad, G.P-14

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 22-06-2026

Heard learned Counsel for the petitioner and

learned counsel for the State.

2. The petitioner has filed writ petition with the

following reliefs:-

*That this writ application is
being filed on behalf of the petitioner seeking
the issuance of an appropriate writ/Writs,
order/orders, direction/directions to set aside
the order passed by the District Magistrate,
Patna dated 07.10.2007, which imposed the
punishment of reduction in rank and stoppage
of increments. The said order was
subsequently confirmed and the petitioner's
appeal was dismissed by the Divisional
Commissioner, Patna vide order dated
29.03.2011.*

3. Learned counsel for the petitioner submits



that the petitioner was working as a Clerk in the office of the Supply Officer, Patna. During the Three-tier Panchayat Elections, 2001, he was entrusted with the additional responsibility of being in charge of issuance of fuel supply coupons for light vehicles. It is alleged that he misused the fuel coupons by forging the signatures of his superior officers and attempted to defalcate an amount of Rs. 45,677/-. In this connection, an FIR was instituted as Gandhi Maidan P.S. Case No. 144 of 2001 dated 04.06.2001 under Sections 467, 468, 471, 409 and 120B of the Indian Penal Code.

4. Learned counsel further submits that, apart from the criminal prosecution, a departmental proceeding was also initiated against the petitioner and a 'Prapatra-Ka' was issued vide Memo No. 2302 dated 03.11.2001. The petitioner submitted his show-cause reply on 11.09.2002, whereafter his suspension was revoked vide Memo No. 595 dated 12.04.2005. Subsequently, the District Magistrate, Patna concluded the departmental proceeding bearing Record No. 31-7/2001 and, vide order dated 07.10.2007, imposed two punishments upon the petitioner, namely: (i) reduction to the basic pay and disqualification from future promotion; and (ii) denial of salary for the period of suspension except the subsistence allowance



already paid. The said punishment was communicated through Memo No. 31-7/2001/4014 dated 29.10.2007.

5. It is further submitted that the criminal trial culminated in the acquittal of the petitioner by the learned Judicial Magistrate, First Class, Patna, vide judgment dated 11.05.2010 passed in G.R. No. 1655 of 2001/Trial No. 895 of 2010. Thereafter, the petitioner preferred Service Appeal No. 77 of 2008 before the Divisional Commissioner, Patna. However, without considering the effect of the acquittal or the grounds urged by the petitioner, the appeal was dismissed vide order dated 29.03.2011, as contained in Annexure P/3 to the writ petition.

6. Learned counsel further submits that, in the meantime, the petitioner had filed CWJC No. 19832 of 2012 challenging the decision of the District Establishment/Promotion Committee dated 22.09.2012. The said writ petition was disposed of by a Co-ordinate Bench of this Court vide judgment dated 20.08.2024. It is only thereafter that the present writ petition has been filed challenging the order of punishment dated 07.10.2007 passed by the District Magistrate, Patna as well as the appellate order dated 29.03.2011 passed by the Divisional Commissioner, Patna.



7. In support of his submissions, learned counsel for the petitioner has placed reliance upon the judgments of the Hon'ble Supreme Court in **Capt. M. Paul Anthony v. Bharat Gold Mines Ltd. & Anr.**, reported in (1999) 3 SCC 679, and **G.M. Tank v. State of Gujarat & Ors.**, reported in (2006) 5 SCC 446. It is contended that where a delinquent employee is acquitted in a criminal case arising out of the same set of facts and evidence, such acquittal ought to be given due consideration while examining the validity of the disciplinary action. It is submitted that, in the present case, the departmental proceeding and the criminal prosecution emanated from the very same allegations and were founded upon identical facts. Therefore, the acquittal of the petitioner in the criminal case ought to have been duly considered by the appellate authority. Since the ratio laid down in the aforesaid judgments has not been taken into account, the petitioner is entitled to the reliefs prayed for. Accordingly, it is prayed that the orders passed by the District Magistrate and the Divisional Commissioner be set aside and all consequential benefits be granted to the petitioner.

8. *Per contra*, learned counsel appearing for the State raises a preliminary objection with regard to maintainability on the ground of gross delay and laches. It is



submitted that the order of punishment was passed by the disciplinary authority on 07.10.2007 after holding five charges to have been proved against the petitioner. The said order was affirmed by the Divisional Commissioner, Patna vide appellate order dated 29.03.2011. However, the petitioner approached this Court only in the year 2024/2025, after an inordinate delay of about fourteen years. It is, therefore, contended that the writ petition is liable to be dismissed on this ground alone.

9. It is further submitted that the explanation offered by the petitioner, namely, that he could not approach this Court earlier due to the pendency of CWJC No. 19832 of 2012, is wholly misconceived. The said writ petition pertained to the decision of the District Establishment/Promotion Committee regarding promotion, whereas the present writ petition challenges the order of punishment passed in the disciplinary proceeding and the appellate order affirming the same. Thus, both causes of action are entirely distinct and independent.

10. In support of the aforesaid contention, learned counsel for the State has relied upon the judgment of the Hon'ble Supreme Court in ***Delhi Administration & Ors. v. Kaushilya Thakur & Anr.***, reported in (2012) 5 SCC 412,



particularly paragraphs 10 and 11, wherein it has been held that an unexplained delay of several years in approaching the writ court is fatal and cannot be ignored.

11. Further reliance has been placed on *State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya*, reported in (2011) 4 SCC 584, particularly paragraph 10, wherein it has been held that a subsequent acquittal by a criminal court does not invalidate a disciplinary proceeding that has already attained finality, nor does it affect the findings of guilt or the punishment imposed therein.

12. Learned counsel has also relied upon the judgments rendered in *Samar Bahadur Singh v. State of Uttar Pradesh & Ors.*, reported in (2011) 9 SCC 94, and *Management of Bharat Heavy Electricals Ltd. v. M. Mani*, (2018) 1 SCC 285, in support of the same proposition.

13. It is lastly submitted that a perusal of the judgment of acquittal itself would show that the petitioner was not honourably acquitted on merits. Rather, he was acquitted because the prosecution failed to produce its witnesses and consequently failed to prove the charges beyond reasonable doubt. Such an acquittal, according to the learned State counsel, does not entitle the petitioner to seek interference with the



disciplinary proceedings.

14. Having considered the rival submissions and upon perusal of the materials available on record, it transpires that the disciplinary authority passed the order of punishment against the petitioner on 07.10.2007, which was affirmed by the appellate authority on 29.03.2011. The present writ petition has been instituted only in December, 2024 (numbered in January, 2025), after an unexplained delay of nearly fourteen years.

15. This Court also feels it necessary to deal with the judgement relied upon by the leaned counsel for the petitioner in ***Capt. M. Paul Anthony vs Bharat Gold Mines Ltd. And Another (supra)*** paragraph 34 and 35 whereof is reproduced as under :-

“34. There is yet another reason for discarding the whole of the case of the respondents. As pointed out earlier, the criminal case as also the departmental proceedings were based on identical set of facts, namely, “the raid conducted at the appellant's residence and recovery of incriminating articles therefrom”. The findings recorded by the enquiry officer, a copy of which has been placed before us, indicate that the charges framed against the appellant were sought to be proved by police officers and panch witnesses, who



had raided the house of the appellant and had effected recovery. They were the only witnesses examined by the enquiry officer and the enquiry officer, relying upon their statements, came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case but the Court, on a consideration of the entire evidence, came to the conclusion that no search was conducted nor was any recovery made from the residence of the appellant. The whole case of the prosecution was thrown out and the appellant was acquitted. In this situation, therefore, where the appellant is acquitted by a judicial pronouncement with the finding that the "raid and recovery" at the residence of the appellant were not proved, it would be unjust, unfair and rather oppressive to allow the findings recorded at the ex parte departmental proceedings to stand.

35. Since the facts and the evidence in both the proceedings, namely, the departmental proceedings and the criminal case were the same without there being any iota of difference, the distinction, which is usually drawn as between the departmental proceedings and the criminal case on the basis of approach and burden of proof, would not be



applicable to the instant case.”

16. The another judgement relied upon by the learned counsel for the petitioner in the case of **G.M. Tank Versus State of Gujarat and Others (supra)** whose paragraph 30 and 31 is relevant which is reproduced as under :-

“30. The judgments relied on by the learned counsel appearing for the respondents are distinguishable on facts and on law. In this case, the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in a departmental case against the appellant and the charge before the criminal court are one and the same. It is true that the nature of charge in the departmental proceedings and in the criminal case is grave. The nature of the case launched against the appellant on the basis of evidence and material collected against him during enquiry and investigation and as reflected in the charge-sheet, factors mentioned are one and the same. In other words, charges, evidence, witnesses and circumstances are one and the same. In the present case, criminal and departmental proceedings have already noticed or granted on the same set of facts, namely, raid conducted at the appellant's residence, recovery of articles therefrom. The Investigating Officer Mr V.B. Raval and other departmental witnesses were the only witnesses



examined by the enquiry officer who by relying upon their statement came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case and the criminal court on the examination came to the conclusion that the prosecution has not proved the guilt alleged against the appellant beyond any reasonable doubt and acquitted the appellant by its judicial pronouncement with the finding that the charge has not been proved. It is also to be noticed that the judicial pronouncement was made after a regular trial and on hot contest. Under these circumstances, it would be unjust and unfair and rather oppressive to allow the findings recorded in the departmental proceedings to stand.

31. In our opinion, such facts and evidence in the departmental as well as criminal proceedings were the same without there being any iota of difference, the appellant should succeed. The distinction which is usually proved between the departmental and criminal proceedings on the basis of the approach and burden of proof would not be applicable in the instant case. Though the finding recorded in the domestic enquiry was found to be valid by the courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings challenging the dismissal, the same requires to be taken note of and the



decision in Paul Anthony case [(1999) 3 SCC 679 : 1999 SCC (L&S) 810] will apply. We, therefore, hold that the appeal filed by the appellant deserves to be allowed.”

17. On the question of delay and laches, paragraphs 10 and 11 of the judgment of the Hon'ble Supreme Court in ***Delhi Administration & Ors. v. Kaushilya Thakur & Anr. (supra)*** relied upon by the State are reproduced hereunder:

“10. We have heard Shri H.P. Raval, learned Additional Solicitor General and Shri Rishikesh, learned counsel for Respondent 1 and perused the record. In our view, the impugned order [Delhi Admn. v. Ranjodh Kumar, LPA No. 25 of 2004, order dated 22-9-2010 (Del)] as also the one passed by the learned Single Judge [WP (C) No. 4450 of 1993, order dated 13-3-2003 (Del)] are liable to be set aside because while granting relief to the husband of Respondent 1, the learned Single Judge overlooked the fact that the writ petition had been filed after almost 4 years of the rejection of an application for allotment of 1000 sq yd plot made by Ranjodh Kumar Thakur. The fact that the writ petitioner made further representations could not be made a ground for ignoring the delay of more than 3 years, more so because in the subsequent communication the authorities concerned had merely indicated that the decision contained in the first letter would stand.

11. It is trite to say that in exercise of the power under Article 226 of the Constitution,



the High Court cannot entertain belated claims unless the petitioner offers tangible explanation (State of M.P. v. Bhailal Bhai [AIR 1964 SC 1006 : (1964) 6 SCR 261]).”

18. The further judgment relied upon by the State in ***State Bank of Bikaner and Jaipur v. Nemi Chand Nalwaya (supra)***, particularly paragraph 10 thereof, is reproduced hereinbelow:

“10. The fact that the criminal court subsequently acquitted the respondent by giving him the benefit of doubt, will not in any way render a completed disciplinary proceedings invalid nor affect the validity of the finding of guilt or consequential punishment. The standard of proof required in criminal proceedings being different from the standard of proof required in departmental enquiries, the same charges and evidence may lead to different results in the two proceedings, that is, finding of guilt in departmental proceedings and an acquittal by giving benefit of doubt in the criminal proceedings. This is more so when the departmental proceedings are more proximate to the incident, in point of time, when compared to the criminal proceedings. The findings by the criminal court will have no effect on previously concluded domestic enquiry. An employee who allows the findings in the enquiry and the punishment by the disciplinary authority to attain finality by non-challenge, cannot after several years, challenge the decision on the ground that subsequently, the criminal court has



acquitted him.”

19. Another judgement referred is ***Samar Bahadur Singh Vs. State of Uttar Pradesh and Others (supra)*** by the State whose paragraph 7 is relevant which is reproduced as under :

“7. Acquittal in the criminal case shall have no bearing or relevance to the facts of the departmental proceedings as the standard of proof in both the cases are totally different. In a criminal case, the prosecution has to prove the criminal case beyond all reasonable doubt whereas in a departmental proceedings, the department has to prove only preponderance of probabilities. In the present case, we find that the department has been able to prove the case on the standard of preponderance of probabilities. Therefore, the submissions of the counsel appearing for the appellant are found to be without any merit.

20. Another judgement referred is ***Management of Bharat Heavy Eletricals Limited Vs. M. Mani (supra)*** by the State whose pragraph 33 is relevant which is reproduced as under :-

“33. In the case on hand, the appellant employer had conducted the departmental enquiry in accordance with law independently of the criminal case wherein the enquiry officer, on the basis of



the appreciation of evidence brought on record in the enquiry proceedings, came to a conclusion that a charge of theft against the delinquent employees was proved. This finding was based on preponderance of probabilities and could be recorded by the enquiry officer notwithstanding the order of criminal court acquitting the respondents.”

21. Upon perusal of the aforesaid judgmentS and upon consideration of the factual matrix of the present case, it transpires to this Court that the scope of criminal jurisprudence and service jurisprudence are distinct. The standard of proof required in a criminal trial is “proof beyond all reasonable doubt”, whereas in departmental proceedings the charge is required to be established only on the touchstone of the “preponderance of probabilities”.

In the present case, a perusal of the judgment passed by the learned Judicial Magistrate clearly reveals that the petitioner has not been honourably acquitted on merits. Rather, the learned Judicial Magistrate has categorically observed as under: -

“After considering the aforesaid facts and circumstances, I am of the view that the prosecution has failed to prove the charges in absence of evidence beyond all reasonable doubts. Therefore, the accused persons was found and held not guilty, and he is entitled to acquittal. Accordingly, accused person is acquitted of the



charges punishable u/s 467, 468, 471, 409, 120B of the IPC.”

22. Upon perusal of the aforesaid judgment of acquittal, it appears that the petitioner has not been honourably acquitted on merits. Rather, the benefit of doubt has been extended to him on account of the prosecution's failure to produce its witnesses and consequently to establish the charges beyond reasonable doubt. Such an acquittal cannot be equated with a clean or honourable acquittal.

23. It is well settled that the standard of proof in a criminal trial is proof beyond all reasonable doubt, whereas in a departmental proceeding the charges are required to be established only on the touchstone of the preponderance of probabilities. It is equally settled that a subsequent acquittal in a criminal case does not ipso facto render a concluded disciplinary proceeding invalid or vitiate the findings recorded therein. The judgments relied upon by the learned counsel for the State clearly reiterate this settled proposition of law.

24. Apart from the aforesaid, this writ petition suffers from gross delay and laches. The order of punishment was passed on 07.10.2007 and the appellate order was passed on 29.03.2011, whereas the present writ petition has been instituted only in December, 2024 (numbered in January, 2025), after an



unexplained delay of about fourteen years. The explanation offered by the petitioner does not satisfactorily account for such inordinate delay.

25. In view of the aforesaid facts and the settled legal proposition, this Court is not inclined to interfere with the impugned orders passed by the disciplinary authority and the appellate authority.

26. Accordingly, the present writ petition stands dismissed.

(Dr. Anshuman, J)

Ashwini/Manshi

AFR/NAFR	
CAV DATE	NA
Uploading Date	24/06/2026
Transmission Date	NA

