

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17870 of 2021

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Pankaj Kumar S/o Late Janeswar Kumar, R/o Sudha Villa Apartment, Flat No. - 15, Kurji Mod, P.S.- Patliputra, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Labour Resource Department, Govt. of Bihar, Patna.
2. The Director, Employment and Training, Labour Resource Department, Government of Bihar, Patna.
3. The Deputy Secretary to the Government, Labour Resource Department, Govt. of Bihar, Patna.
4. The Assistant Director (Examination), Employment and Training Directorate, Labour Resource Department, Niyojan Bhawan, Patna.
5. The Officer on Special Duty, Labour Resource Department Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anand Kumar Ojha, Sr. Advocate Mr. Basheer Faizi, Advocate Mr. Amit Kumar Singh, Advocate
For the Respondent/s	:	Mr. Anil Kumar Singh, GP- 26

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CORAM: HONOURABLE MR. JUSTICE KUMAR MANISH
CAV JUDGMENT

Date : 01-09-2026

1. Heard learned Senior Counsel appearing on behalf of the petitioner and learned counsel representing the State.

2. The present writ petition has been filed seeking quashing of Memo No. 2551 dated 11.11.2019 issued under the signature of the Deputy Secretary, Labour Resources Department, Government of Bihar (Annexure- 1), whereby minor penalties of Censure for the relevant year and withholding of three increments of pay without cumulative effect were imposed upon the petitioner.

The petitioner further prays for quashing of Memo No. 1749 dated 06.09.2021 (Annexure- 2), passed by the Officer on Special Duty, Labour



Resources Department, rejecting his appeal/review application, as well as the foundational Departmental Charge Memo No. 582 dated 08.03.2019 (Annexure- 14), with a consequential direction for release of all withheld financial and service benefits along with interest.

3. Briefly stated, the facts of the case are that the Petitioner was posted as Principal-cum-Centre Superintendent at Government ITI Mahkaar, Gaya, on 09.05.2018. Ahead of the All-India Trade Test (AITT) conducted in July 2018, the petitioner submitted an inspection report dated 18.05.2018 (Annexure- 3), and subsequent requisitions (Annexures- 4, 5, 6, and 6A), intimating the authorities regarding severe infrastructural deficits, including seating capacity restricted to only 110 candidates against approximately 350 daily examinees, and requesting essential logistical support. On 24.07.2018, the examination was conducted and certified as peaceful and fair by the Magistrate and Observer deputed at the centre vide report dated 24.07.2018 (Annexure- 9). However, following a newspaper report published in *Dainik Bhaskar* on 25.07.2018, alleging delay and mismanagement, a show cause notice dated 26.07.2018, was issued to the petitioner. Despite the petitioner's reply dated 13.09.2018 (Annexure- 13), clarifying that the news photo pertained to another institution, departmental proceedings were initiated vide Charge Memo dated 08.03.2019 (Annexure-14) under Rule 19 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005. The written request of the petitioner dated 27.03.2019 (Annexure- 15), seeking for technical parameters,



video recordings, and inspecting details for preparing his defence, was denied by the department on 30.05.2019 (Annexure- 16), holding the same as "not reasonable," following which the impugned punishment and appellate orders were passed.

4. Learned Senior Counsel appearing on behalf of the petitioner submits that the impugned departmental proceeding and resultant punishment orders are wholly unsustainable in law. It is submitted that the technical charge, alleging that practical job pieces were fabricated using a gas cutter and awarded average marks, was accepted by the disciplinary authority without supplying the foundational technical report, standard guidelines, or video footage which was repeatedly requested by the petitioner vide Annexure-15. Withholding such vital material while holding the petitioner guilty amounts to a blatant violation of the principles of natural justice and rendered his defense illusory. In support of this submission, reliance has been placed upon the judgment of the Hon'ble Supreme Court in *State of U.P. v. Shatrughan Lal & Ors.*, reported in (1998) 6 SCC 651, wherein the Hon'ble court explained that an opportunity of hearing becomes illusory if the employee is expected to answer allegations without being given access to the material upon which those allegations are founded.

5. Learned Senior Counsel for the petitioner further submits that the initial charge of mismanagement was founded exclusively upon an uncorroborated newspaper clipping, while the column for witnesses in the charge memorandum was recorded as "Nil". Neither the journalist, photographer, nor



any candidate was produced or examined. It is a settled law that a newspaper report is merely hearsay and cannot constitute substantive evidence of misconduct, especially when contradicted by official reports of the deputed Magistrate and Observer. In this regard, reliance has been placed on the judgment of the Hon'ble Supreme Court in *Laxmi Raj Shetty & Anr. v. State of Tamil Nadu*, reported in (1988) 3 SCC 319. The same had been also reiterated in the case of *Quamarul Islam v. S.K. Kanta & Ors.*, reported in 1994 Supp (3) SCC 5, wherein it had been categorically observed that newspaper report is merely hearsay unless the facts reported are independently proved in accordance with law. The Hon'ble Court in the said case also went on to categorically observe that where neither the reporter who gathered the information nor the author of the report is examined, and no independent evidence is adduced to establish the truth of allegations contained in the publication, mere production of copies of newspaper cannot amount to proof of the facts reported.

It is further urged by the learned Senior Counsel for the Petitioner that proceeding without evidence and in violation of natural justice causes a jurisdictional failure as enunciated in *M.L. Sethi v. R.P. Kapur*, reported in (1972) 2 SCC 427, and that the appellate order passed by an Officer on Special Duty lacks legal sanction.

6. *Per contra*, learned counsel appearing on behalf of the State has submitted that the disciplinary proceeding against the petitioner was conducted strictly in



accordance with Rule 19 of the Bihar CCA Rules, 2005, which governs the procedure for imposing minor penalties. It is submitted that a regular inquiry involving oral examination of witnesses is not mandatory under Rule 19 when minor penalties are proposed. Learned counsel for the State contends that the petitioner was served with a chargesheet along with the available material, and the disciplinary authority passed the impugned order after due consideration of the Petitioner's explanation, thereby adhering to the principles of natural justice.

7. Having heard learned counsel for the parties and upon careful perusal of the record, the issues for determination before this Court are:

(I) Whether a finding of technical misconduct can be legally sustained when the disciplinary authority refuses to supply the underlying inspection parameters, technical verification reports, and video recordings sought by the delinquent employee, thereby violating the principles of natural justice?

(II) Whether an uncorroborated newspaper clipping can form substantive proof of misconduct in a departmental proceeding in the absence of independent witness testimony and in the face of contradictory official reports from the deputed Magistrate and Observer?

(III) Whether the procedure adopted under Rule 19 of the Bihar CCA Rules, 2005 suffers from a fundamental jurisdictional vice rendering the impugned punishment and review orders a nullity?



8. This Court finds that the primary technical allegation against the Petitioner was accepted without providing him access to the underlying inspection parameters or video recordings requested vide letter dated 27.03.2019 (Annexure- 15). The summary rejection of his request by the department vide letter dated 30.05.2019 (Annexure- 16) as "not reasonable" severely prejudiced his defense.

9. As held in Paragraph 4 of **State of U.P. v. Shatrughan Lal** (supra), where documents relied upon or sought for effective defense are not supplied to the delinquent employee, an opportunity of hearing becomes illusory, and the proceedings stand vitiated for breach of natural justice. The respective paragraph states:

"4. In departmental proceedings where charge-sheet is issued and the documents which are proposed to be utilised against that person are indicated in the chargesheet, but copies thereof are not supplied to him in spite of his request... it cannot be said that an effective opportunity to defend was provided to him"

It was made clear that natural justice requires disclosure of the material relied upon by the disciplinary authority in order to give the employee an opportunity to examine, explain, contradict or challenge it during the enquiry. Proceedings conducted without supplying such foundational material cannot be regarded as fair merely because the employee was formally asked to submit a reply.



10. Even in a proceeding under Rule 19 of the Bihar CCA Rules, 2005, which allows a summary procedure without holding full inquiry which is intended only for minor/undisputed matters, the disciplinary authority cannot act arbitrarily or base findings of guilt on undisclosed technical material, when the underlying charges are factual and explicitly denied by the employee. The said rule is enunciated hereunder:

“Rule 19 provides for procedure for imposing minor penalties:

(1) Subject to the provisions of sub-rule (3) of Rule 18, no order imposing on a Government Servant any of the penalties specified in clauses (i) to (v) of Rule 14 shall be made except after-

(a) informing the Government Servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in sub-rules (3) to (23) of Rule 17, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any, submitted by the Government Servant under clause (a) and the record of inquiry, if any, held under clause (b) into consideration;

(d) recording a finding on each imputation of misconduct or misbehaviour; and

(e) consulting the Commission where such consultation is necessary.

(2) The record of the proceedings in such cases shall include-

(i) a copy of the intimation to the Government Servant of the proposal to take action against him;

(ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him;



(iii) his representation if any;

(iv) the evidence produced during the inquiry;

(v) the advice of the Commission, if any;

(vi) the findings of each imputation of misconduct or misbehaviour; and

(vii) the orders on the case together with the reasons therefor.”

11. It is not in dispute that, even after repeated requests made on behalf of the Petitioner for disclosure of the identity and technical methodology adopted, CCTV recordings and other materials relied upon by the Department, nothing was accorded to him inasmuch as, the same was rejected outrightly in a mechanical and cavalier manner. Denial to provide the same deprives the petitioner of a fair opportunity to challenge the order, resulting in blatant violation of the principle of **Audi Alteram Partem** which is one of the key principles of Natural Justice.

12. This principle was also established in the case of ***O.K. Bharadwaj v Union of India and Others, 2001(9) SCC 180***, wherein it was laid down in the paragraph 3 that,

"While we agree with the first proposition of the High Court having regard to the rule position which expressly says that "withholding increments of pay with or without cumulative effect" is a minor penalty, we find it not possible to agree with the second proposition. Even in the case of a minor penalty an opportunity has to be given to the delinquent employee to have his



say or to file his explanation with respect to the charges against him. Moreover, if the charges are factual and if they are denied by the delinquent employee, an enquiry should also be called for. This is the minimum requirement of the principle of natural justice and the said requirement cannot be dispensed with."

13. The Supreme Court held that even in minor penalty proceedings, an opportunity must be given to the delinquent employee to have his say or submit an explanation regarding the charges. While the department issued a show-cause notice and charge memo under Rule 19 of the Bihar CCA Rules, 2005, they simultaneously denied the Petitioner access to essential technical inspection parameters and video recordings (Annexure- 16).

Under this legal principle, withholding the underlying material rendered his right to file a meaningful explanation purely illusory. Paragraph 3 of the above mentioned case explicitly rules that if the charges are factual and are denied by the employee, an enquiry must be called for, as this is a non-negotiable minimum requirement of natural justice.

The charges against the Petitioner were entirely factual, alleging mismanagement during the examination and the fabrication of practical job pieces using a gas cutter. The Petitioner vehemently denied these factual allegations, producing store registers to prove no gas cutter existed at the centre and citing the Magistrate/Observer report confirming a peaceful exam.



Despite this sharp dispute of facts, the department dispensed with a proper enquiry, cited "Nil" witnesses, and relied solely on an unproved newspaper clipping to impose the minor punishment violating **Rule 14 of the Bihar CCA Rules, 2005**.

14. Rule 14 mandates a formal inquiry when disputed issues of fact are involved. The department was required to formulate a regular charge sheet, name witnesses, produce documentary evidence, and allow the delinquent to cross-examine rather than entering "**Nil**" for witnesses, relying solely on an unproved newspaper clipping, and refusing to supply the underlying technical parameters and video footage (Annexure-16). Applying paragraph 3 of the above cited judgment, the department could not summarily penalize the Petitioner under Rule 19 without holding a proper enquiry to prove the contested facts, making the imposition of minor punishment by way of Annexures- 1 and 2 legally unsustainable.

15. Furthermore, at this juncture, it also imperative to give due consideration to Rule 19(1)(b) of Bihar CCA, Rules 2005, which stipulates that no order imposing on a Government Servant any of the penalties specified in clauses (i) to (v) of Rule 14 shall be made except after, holding an inquiry in the manner laid down in sub-rules (3) to (23) of Rule 17, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary.



16. As per the judicial proposition set in the case of ***O.K. Bharadwaj v Union of India and Others, 2001(9) SCC 180***, wherein it had been categorically observed if the charges are factual and if they are denied by the delinquent employee, an enquiry should also be called for. This is the minimum requirement of the principle of natural justice, and the said requirement cannot be dispensed with.

17. Given the case at hand, the charges were factual which were vehemently denied by the Petitioner, therefore an enquiry should have been called for, which in the instant case has not been done. For an enquiry to be held, the same was required to be done in the manner prescribed under sub rules (3) to (23) of Rule 17. However, much to the detriment of the Petitioner, the same was omitted to be done, causing grave and irreparable injury to the Petitioner.

18. It would not be out of place to mention Rule 17(3) of the Bihar CCA Rules, 2005 which reads as follows:

"17. Procedure for imposing major penalties –

(3) Where it is proposed to hold an inquiry against a government servant under this Rule, the disciplinary authority shall draw up or cause to be drawn up-

(i) the substance of the imputations of misconduct or misbehaviour as a definite and distinct article of charge;

(ii) a statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain-

(a) A statement of all relevant facts including any admission or confession made by the Government Servant;



(b) A list of such document by which, and a list of such witnesses by whom, the articles of charge are proposed to be sustained.

Nonetheless, it is also expedient to cite the note contained in the provision under Rule 17(11)(ii) which reads as follows:

“Note: - If the Government Servant applies in writing for the supply of copies of the statements of witnesses mentioned in the list referred to in sub rule 3, the inquiring authority shall furnish him with such copies as early as possible.”

19. In view of the aforesaid backdrop, this Court also holds, that not conducting an inquiry in accordance with Rule 19(1)(b) of the Bihar CCA Rules, 2005, is a major procedural lapse and a flagrant violation of the provision contained in the said Rules. The infraction of the procedure as contained under the CCA Rules, 2005, no doubt abrogates that right of the delinquent employee, i.e. the Petitioner.

20. **Rule 18 of the Bihar CCA Rules, 2005** governs the disciplinary authority's duty to evaluate the inquiry findings, record reasons, and provide the employee an opportunity to respond to the inquiry report before imposing a penalty. Because the department skipped a formal Rule 14 inquiry, no Inquiry Report was ever generated. Without a Rule 18 process, the disciplinary authority acted without an objective evaluation of evidence. They completely ignored primary exculpatory evidence, such as the Magistrate's Report (Annexure- 9) and the store register, and instead mechanically issued the punishment order based purely on an unverified newspaper report. The



department used Rule 19 to evade the rigorous safeguards of Rule 14, thereby destroying the evidentiary review mechanism required under Rule 18.

21. It is manifestly clear from the record that the allegation regarding examination mismanagement was initiated solely on the basis of a newspaper report. The chargesheet did not cite any witnesses. As settled in Paragraph 19 of **Laxmi Raj Shetty** (supra) newspaper reports do not constitute substantive evidence in the absence of independent proof and witness testimony. The Court laid down that,

“It is pointed out that the defence had not examined the reporters who had gathered the news appearing in the newspapers and authenticate the version though the reporters had been summoned. Further, in a case of this nature, the Court cannot reject the other reliable and credible evidence led in accordance with law merely on the publication of this kind of unauthenticated news item in the press.”

This position of law was reiterated in **Quamarul Islam** (supra), where under paragraph 39 it was reiterated that,

“Newspaper reports by themselves are not evidence of the contents thereof. Those reports are only hearsay evidence.... Newspaper, is at the best secondary evidence of its contents and is not admissible in evidence without proper proof of the contents under the Indian Evidence Act. The learned trial judge could not treat the newspaper reports as duly 'proved' only by the production of the copies of the newspaper. Since, the maker of the report which formed basis of the publications, did not appear in



the court to depose about the facts as perceived by him, the facts contained in the published reports were clearly inadmissible.

As per the aforesaid cited precedents without examining the individual, who personally perceived the reported events, the contents remain inadmissible.

22. In the present case, the news item stood directly rebutted by the contemporaneous report of the deputed Magistrate and Observer (Annexure-9), wherein it was reported that All India Trade Test(July 2018 Semester I, Practice/Theory) held on July 24, 2018, during the first shift was completed peacefully and without malpractices in the presence of armed forces and a magistrate.

23. Considering the provisions of Bihar CCA Rules, 2005 and the settled principles of law, this court is of the view, adopting an unproved news report as conclusive proof while ignoring to have a fair inquiry, official inspection records and store registers which established that no gas cutter was ever purchased or was available at the institute constitutes a clear jurisdictional error within the principles laid down in **M.L. Sethi** (supra), where it was laid down that,

“The question then is, did the judges of the lower Courts in this case, in the exercise of their jurisdiction, act illegally or with material Irregularity. It appears that they had perfect jurisdiction to decide the question which was before them, and they did decide



it. Whether they decided rightly or wrongly, they had jurisdiction to decide the case; and even if they decided wrongly, they did not exercise their jurisdiction illegally or with material irregularity.”

The case before this Court is one where, in order to establish their case, the party acted in illegal and irregular manner and overlooked all the relevant materials on record.

24. In view of the aforesaid facts, underlying issues, and settled legal position, the impugned orders cannot be sustained in law. Accordingly, the writ petition is **allowed**.

The Departmental Charge Memo No. 582 dated 08.03.2019 (Annexure- 14), the Punishment Order Memo No. 2551 dated 11.11.2019 (Annexure- 1), and the Review Rejection Order Memo No. 1749 dated 06.09.2021 (Annexure- 2) are hereby **quashed**. The respondents are directed to restore all service benefits to the petitioner and release the arrears of salary along with withheld increments within a period of three months from the date of receipt/production of a copy of this judgment.

25. There shall be no order as to costs.

(Kumar Manish, J)

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AFR/NAFR	AFR
CAV DATE	06.08.2026
Uploading Date	01.09.2026
Transmission Date	

