

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19780 of 2019

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Pawan Kumar S/o Late Kailu Ram Vill.- Teghra, P.s.- Babubarhi, Distt.-
Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Minor Water Resources Department, Bihar, Patna
3. The Departmental Enquiry Commissioner General Administration
Department, Bihar, Patna
4. The Additional Secretary Minor Water Resources Department, Bihar, Patna
5. The Deputy Secretary Minor Water Resources Department, Bihar, Patna
6. The Chief Engineer (South) Tube Well Wing, Minor Water Resources
Department, Bihar, Patna
7. The Chief Engineer (North) Minor Water Resources Department,
Muzaffarpur
8. The Superintending Engineer Minor Irrigation Circle, Chapra

... .. Respondent/s

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Appearance :

For the Petitioner/s	: Mr. Rajendra Narayan, Sr. Advocate Mr. Sadanand Paswan, Advocate Mr. Moni Kumari, Advocate
For the State	: Mr. Pankaj Kr. Singh, A.C. to G.A.-9. Mr. Brajkishore Pd. Sinha, GA-18 Mr. Arvind Kumar, AC to GA-18

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CORAM: HONOURABLE MR. JUSTICE KUMAR MANISH

CAV JUDGMENT

Date : 29-09-2026

1. Heard the learned counsel for the petitioner and learned counsel
appearing on behalf of the State-respondents.
2. By way of this writ application the petitioner has prayed for issuance of
writ in nature of certiorari for quashing of :



- (i) The order contained in Memo No.1782 dated 09.05.2018 (Annexure-1 to the writ application), passed by the Deputy Secretary, Minor Water Resources Department, Government of Bihar, whereby the petitioner has been awarded the punishment of reversion from the post of Executive Engineer to the basic grade of the Bihar Engineering Service, i.e., Assistant Engineer, as a collective/composite punishment arising out of two separate and distinct departmental proceedings in pursuant to Enquiry Reports dated 04.07.2017 as well as 07.06.2017 (Annexure 11 and 18 respectively to the writ petition); and
- (ii) The order passed under review contained in Memo No.3336 dated 06.08.2018 (Annexure-2 to the writ application), by the very same authority, by which the review petition of the petitioner dated 08.06.2018 (Annexure-20 to the writ application) has been rejected and the original order of punishment has been affirmed.

3. The brief facts, as emerging from the pleadings, are that the petitioner was posted as Executive Engineer, Tube Well (Nalkup) Division, Siwan, Minor Water Resources Department, during the period April 2013 to July 2014. A Joint Inspection was carried out on 14.04.2014 and



15.04.2014, by Sri Subhash Chandra Singh, Chief Engineer (South), Tube Well Wing and Sri Ravindra Kumar Singh, Executive Engineer, Design Division, Minor Irrigation Division, Patna, in respect of the installation of 13 tube wells executed under three separate agreements bearing Nos. 01F2/2013-14, 01SBD/2013-14 and 02F2/2013-14. The Joint Inspection Report was submitted on 22.05.2014 vide Letter No.383 (Annexure-3 to the writ), which was after a delay of about one month and seven days. It was alleged in the said inspection report that, an excess payment of Rs.16,96,740/-, Rs.18,53,147/- and Rs.5,37,460/- was respectively spent under the three agreements for installation of the tubewells, as such a total of about Rs.3.54 crore had been spent on the construction / installation of the 13 tube wells and that none of them were found functional, and that the estimates had been prepared without physical verification.

First Departmental Proceeding:

4. On the basis of the aforesaid Joint Inspection Report, the petitioner was placed under suspension on 10.11.2014 vide Order No.263 (Annexure-6 to the writ), and thus the suspension was made prior to the stage of framing of any charge. Thereafter, a memo of charge (Prapatra-K) dated 15.11.2014 was framed by the Additional Secretary, Minor Water Resources Department, Bihar, Patna, and communicated to the petitioner vide Letter/Memo No.6670 dated 24.11.2014 (Annexure-4(A) & 4(B) to



the writ), wherein three charges as enunciated hereunder were levelled against the Petitioner:

- (i) Excess payment made as noted in the Joint Inspection Report;
- (ii) Expenditure of Rs.3.54 crore on 13 tube wells without any of them being functional; and
- (iii) Preparation of estimates without spot-verification and not in consonance with actual requirement.

5. The petitioner, thereafter, submitted his reply/show cause on 15.12.2014 (Annexure-5 to the writ), denying all the allegations. The departmental proceeding was formally initiated under Rule 17 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (“CCA Rules, 2005”) vide Resolution No.1696 dated 08.04.2015 (Annexure-7 to the writ), whereby the Departmental Enquiry Commissioner, Bihar, Patna was appointed as the Enquiry Officer and the Executive Engineer, Minor Irrigation Division, Siwan was appointed as the Presenting Officer. The petitioner filed a supplementary show cause reply on 26.08.2015 (Annexure-8 to the writ), inter alia asserting that the charge relating to preparation of the estimate without physical verification pertained to his predecessor-in-office, Sri Devendra Pandit, against whom no proceeding in any manner whatsoever, was initiated.



6. It is significant that, parallel to the aforesaid departmental proceeding, the very same allegations contained in the Joint Inspection Report (Annexure-3 to the writ) were also referred to the Technical Examiner Cell of the Vigilance Department vide Letter No.4708 dated 10.09.2014, and the said Cell, after examination, submitted its report on 29.02.2016 (Annexure-9 to the writ), wherein it was specifically recorded that no financial irregularity and no excess payment was found to be made in the installation of the 13 tube wells during the petitioner's tenure as Executive Engineer, Tube Well Division, Siwan. The petitioner placed this report on record by way of a further supplementary show cause dated 28.06.2017 (Annexure-10 to the writ).

7. The Additional Departmental Enquiry Commissioner-cum-Additional Member, Board of Revenue, concluded the enquiry and submitted the report on 04.07.2017 (Annexure-11 to the writ), holding the charges to be proved.

It is the specific case of the petitioner that the Enquiry Officer proved the charge without examining a single witness and without exhibiting a single document and that Sri Subhash Chandra Singh, Chief Engineer (South) and Sri Ravindra Kumar Singh, Executive Engineer, the very authors of the Joint Inspection Report on which the charge was founded, were never examined, nor was any opportunity of cross-examination accorded to the petitioner in respect of the said report.



Further, the exculpatory report of the Technical Examiner Cell of the Vigilance Department (Annexure-9 to the writ), was not considered at all.

A second show cause notice was thereafter, issued to the Petitioner, vide Memo No.3013 dated 19.07.2017 (Annexure-12 to the writ), the reply to which was given by the Petitioner on 27.07.2017 (Annexure-13, to the writ).

Second Departmental Proceeding:

8. A separate and independent charge (Prapatra-K), unconnected with the first proceeding, was framed by the Superintending Engineer, Minor Irrigation Circle, Chapra, relating to alleged non-verification made on time, with regards to the waste/scrap material and dump material lying at the Gopalganj Division, and for the auction of the said waste material allegedly not being made at book price. This charge was communicated to the petitioner vide Departmental Letter No.6681 dated 16.12.2015 (Annexure-15(A) & 15(B) to the writ). The departmental proceeding hence, was formally initiated vide Resolution No.3082 dated 28.06.2016 (Annexure-14 to the writ), and the Departmental Enquiry Commissioner was appointed as Enquiry Officer. The Executive Engineer, Minor Irrigation Building, Gopalganj was appointed as Presenting Officer. The petitioner filed his show cause on 02.05.2017 (Annexure-16 to the writ), stating interalia, that the waste material had in fact been auctioned for Rs.58,900/-, which was higher than the assessed value of Rs.57,308/-,



fixed on survey by the Chief Engineer (North) vide letters dated 22.08.2012 and 15.09.2012, and that no “book price” for waste material stood notified by the Department.

9. The Additional Departmental Enquiry Commissioner-cum-Additional Member, Board of Revenue, concluded this enquiry as well and submitted the report on 07.06.2017 (Annexure-17 to the writ), again holding the charge to be proved.

It is specifically contended by the Petitioner that no evidence was produced, and no document was exhibited or examined. The Superintending Engineer, Minor Irrigation Circle, Chapra, who being the author of the charge, was never examined; and no opportunity of cross-examination was ever accorded to the petitioner. A second show cause notice was issued vide Letter No.2523 dated 22.06.2017 (Annexure-18 to the writ), the reply of which was given by the petitioner on 17.07.2017 (Annexure-19 to the writ).

10. It further transpires from the record, and is not disputed by the respondents, that in a third and altogether distinct departmental proceeding initiated against the petitioner vide Resolution No.1469 dated 30.03.2015, relating to the charge of making payment to a contractor despite a forged bank guarantee, the very same Enquiry Officer-Addl. Departmental Enquiry Commissioner-cum-Addl. Member, Board of Revenue, Bihar,



extended the benefit of doubt to the petitioner and held the charge not proved, vide his communication being Letter No.236 dated 04.07.2017.

11. On receipt of the two Enquiry Reports dated 04.07.2017 (Annexure-11) and 07.06.2017 (Annexure-17), the Department, by its letters dated 22.06.2017 and 19.07.2017, called upon the petitioner to submit his second show cause/explanation in respect of the proved charges, which the petitioner duly complied with, as noted above. Thereafter, vide Departmental Order No.97 read with Memo No.1782 dated 09.05.2018 (Annexure-1, pages 35-37), the State-respondents, treating the charges in both the aforesaid proceedings as proved and, according to the respondents, in consultation with the Bihar Public Service Commission, awarded to the petitioner, after revoking the suspension order, a composite punishment of (i) censure for the year 2013-14, and (ii) demotion/reversion to the original post of Assistant Engineer, in respect of the two separate departmental proceedings taken together.

12. Aggrieved thereby, the petitioner filed a review petition on 08.06.2018 (Annexure-20 to the writ), which came to be rejected, and the punishment order dated 09.05.2018 was affirmed, vide order dated 06.08.2018, issued under Memo No.3336, by the Deputy Secretary, Minor Water Resources Department (Annexure-2 to the writ). By the very same order, the suspension period of the petitioner was directed to be treated as subsistence-allowance-only, though counted for pensionary benefit.



Submissions on behalf of the Petitioner:

13. Learned counsel for the petitioner has assailed the impugned orders essentially on the following grounds:

- (i) The enquiry in both the proceedings has been conducted in complete violation of the mandatory procedure prescribed under Rule 17 of the CCA Rules, 2005, inasmuch as, the Enquiry Officer (Addl. Departmental Enquiry Commissioner-cum-Addl. Member, Board of Revenue, Bihar) proved the charges without adducing any oral or documentary evidence, like a prosecutor recording his own conclusions, and no witness whatsoever was examined in either proceeding.
- (ii) That the memo of charge dated 15.11.2014 (Annexure-4(A) & 4(B), pages 47-59), which forms the very foundation of the first proceeding, does not incorporate any list of documents or list of witnesses by which the articles of charge were proposed to be sustained, and thus, making it come in the teeth of the mandatory requirement of Rule 17(3)(ii)(a) & (b) of the CCA Rules, 2005. Consequently, the charge itself, and everything built upon it, is vitiated ab initio.
- (iii) Sri Subhash Chandra Singh, Chief Engineer (South) and Sri Ravindra Kumar Singh, Executive Engineer the authors of the



Joint Inspection Report dated 22.05.2014 (Annexure-3), on which the entire first charge rests, were never examined as witnesses, and the Superintending Engineer, Minor Irrigation Circle, Chapra the author of the second charge was never examined either; nor was any opportunity of cross-examination was accorded to the petitioner qua either report, contrary to Rule 17(6)(iii), 17(14) and 17(17) of the CCA Rules, 2005.

(iv) The exculpatory Report of the Technical Examiner Cell of the Vigilance Department dated 29.02.2016 (Annexure-9 to the writ), which on identical facts specifically recorded that no financial irregularity or excess payment had been committed by the petitioner, was placed on record before the Enquiry Officer by way of supplementary show cause dated 28.06.2017 (Annexure-10 to the writ), but the same was completely ignored while returning a finding of guilt, rendering the Enquiry Report dated 04.07.2017 (Annexure-11 to the writ) perverse and unsustainable.

(v) The memo of charge in the first proceeding was framed by the Additional Secretary and, in the second proceeding, by the Superintending Engineer, though the petitioner, being an officer in Group-A/Class-I of the Bihar Engineering Service,



could be proceeded against only by the competent Disciplinary Authority. Framing of the charge by an authority lower than, or other than, the competent Disciplinary Authority is wholly without jurisdiction.

(vi) A two entirely separate and unconnected departmental proceedings arising out of different charges, framed by different authorities, and concluded through two independent Enquiry Reports have been clubbed together for the purpose of awarding a single, composite/collective punishment of reversion vide the impugned order dated 09.05.2018, which is impermissible under Rule 14 read with Rule 22 of the CCA Rules, 2005.

(vii) The second show cause filed by the petitioner was not considered while passing the final order of punishment, and the review petition dated 08.06.2018, has been rejected mechanically, without independent application of mind, vide the order dated 06.08.2018.

14. In support of the above submissions, apart from the settled principle of law as laid down by the Hon'ble Supreme Court in ***State of U.P. & Ors. v. Saroj Kumar Sinha, (2010) 2 SCC 772 (paragraphs 28 to 30)***, learned counsel for the petitioner has also placed reliance upon the decisions of this Court in ***Suresh Kumar Choubey vs. The Chairman, Uttar Bihar***



Gramin Bank reported in 2018(3) PLJR 545; The Union of India and Ors. Vs. Shashi Bhushan Prasad Ray and Ors. reported in 2015(4) PLJR 926; Leela Devi vs. State of Bihar & Ors. reported in 2017(3) PLJR 676 and Manorma Kumari vs. State of Bihar & Ors. having C.W.J.C. No.11984 of 2025 2018(3) PLJR 545, wherein, on materially similar facts, it has been held that a departmental enquiry culminating in imposition of a major penalty, conducted without examining any witness and without providing an opportunity to the delinquent employee to cross-examine the authors of the inspection/vigilance reports on which the charge is found to be proved, stands vitiated and hence, cannot be sustained.

15. *Per contra*, the learned counsel for the State-respondents has supported the impugned orders and in their reply has submitted that in the first proceeding all the charges except the one relating to preparation of estimate without spot-verification were found proved vide Enquiry Report dated 04.07.2017; that in the second proceeding all the charges were found proved vide Enquiry Report dated 07.06.2017; and that in the third proceeding which relates to the forged bank guarantee, the Enquiry Officer gave the benefit of doubt to the petitioner and the charge was not held to be proved. On receipt of the representations dated 08.06.2018 and 22.06.2018 filed by the Petitioner, the Government duly considered the same and found them unsatisfactory, and accordingly passed the order



dated 06.08.2018, upholding the punishment order imposed upon the Petitioner. It was directed that only subsistence allowance be paid for the suspension period. The said period, however, would be counted for pensionary benefit.

16. It has further been averred on behalf of the respondents that a chargesheet dated 24.11.2014 (Annexure-4(A) & (B) to the writ petition), was duly served upon the petitioner along with the evidence relied upon by the Department, and that it is incorrect to state that no evidence was made available to the Petitioner.

17. The petitioner on the other hand, in his rejoinder and supplementary rejoinder to the counter affidavit, has specifically controverted the aforesaid averments made by the respondent authorities, asserting that it is apparent from the departmental enquiry report itself (Annexure-11 to the writ), that no witnesses were examined during the enquiry, and that none of the persons whose reports were relied upon namely, Sri Subhash Chandra Singh, Chief Engineer (South), Sri Ravindra Kumar Singh, Executive Engineer, and the Superintending Engineer, Minor Irrigation Circle, Chapra (author of the second charge) were examined as witnesses. Furthermore, nothing on record shows that any evidence relied upon by the respondents was, in fact, served upon or made available to the petitioner before or during the enquiry, and that only the show cause given to the



petitioner and the resolution contained in Memo No.1696 dated 08.04.2015 (Annexure-7 to the writ) were made available.

18. Having heard learned counsel for the parties and upon perusal of the materials on record, including the entire pleadings and the annexures referred to hereinabove, the questions that falls for consideration before this Court are enunciated hereunder:

- (a) Whether the departmental proceedings as against the Petitioner based on the Enquiry Reports dated 04.07.2017 (Annexure-11) and 07.06.2017 (Annexure-17) were conducted in conformity with the mandatory procedure prescribed under Rule 17 of the CCA Rules, 2005, particularly sub-rules (3)(ii)(a) & (b), (4), (6) and (14) thereof;
- (b) Whether a finding of guilt recorded without examining a single witness, without exhibiting any document, and without according the delinquent an opportunity of cross-examination, can, in law, sustain the imposition of a major penalty;
- (c) Whether the Enquiry Officer, while proving the charge, can ignore the report of the Technical Examiner Cell of the Vigilance Department (Annexure-9 to writ), which, on the self-same allegations, found no financial irregularity;



- (d) Whether a collective/composite punishment of reversion can be validly imposed upon the petitioner on the basis of findings recorded in two independent and unconnected departmental proceedings, without an order for common proceedings having ever been passed; and
- (e) Whether the impugned order dated 09.05.2018, and the order on review dated 06.08.2018, are otherwise sustainable in law.

19. At the outset, it would be apposite to notice the relevant provisions of Rule 17 of the CCA Rules, 2005, which prescribes the procedure for imposing major penalties. Sub-rule (3) thereof provides as under:

“(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.”

20. Sub-rule (4) of Rule 17 further mandates that the disciplinary authority shall “deliver or cause to be delivered” to the Government servant a copy of the articles of charge, the statement of imputations, and the list of documents and witnesses referred to above. Sub-rule (6)(iii) requires the disciplinary authority to forward, inter alia, “a copy of the statement of witnesses, if any, specified in sub-rule (3)” to the inquiring authority. Sub-rule (14) further provides that:

“(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the Government Servant. ...”

21. Upon a scrupulous reading of the memo of charge dated 15.11.2014, as communicated vide Letter/Memo No.6670 dated 24.11.2014 (Annexure-4(A) & 4(B) to the writ), it transpires that the same does not disclose annexation of any list of documents or list of witnesses as contemplated under Rule 17(3)(ii)(a) & (b) of the CCA Rules, 2005. This



deficiency at the very threshold has a direct bearing on the delinquent's ability to know the case he is required to meet and defend.

Further in light of the foregoing, it is needless to state that the Petitioner was not given the opportunity to inspect the documents, and to submit a list of defence witnesses under sub-rule (11) of Rule 17. Learned counsel for the respondents has not been able to point out, from the pleadings or from the annexures to the counter affidavit, any material to show that a list of documents and witnesses, as mandated by Rule 17(3)(ii) (a) & (b), was ever drawn and served or communicated to the petitioner along with the charge memo dated 24.11.2014.

22. Insofar as Annexure- 7 to the writ petition, namely, the Resolution No.1696 dated 08.04.2015 (at pages 68-69), is concerned, this Court finds that the said Resolution is merely a formal administrative order by which the disciplinary authority, in exercise of power under sub-rule (2) of Rule 17, decided to hold a formal enquiry and appointed the Departmental Enquiry Commissioner as the Enquiry Officer and the Executive Engineer, Minor Irrigation Division, Siwan as the Presenting Officer. Annexure-7 does not, either in its recitals or in its operative part, incorporate or enclose any list of documents or witnesses, nor does it purport to cure or supplement the antecedent memo of charge dated 24.11.2014, in that regard.



The Resolution being merely the order initiating the formal enquiry, it cannot, by itself, be read as satisfying the distinct and mandatory requirement of sub-rule (3)(ii)(b) of Rule 17, which obliges the disciplinary authority to draw up a list of documents and witnesses at the stage of framing of the charge itself, and of sub-rule (6)(iii), which obliges the disciplinary authority to forward the statement of witnesses to the inquiring authority. The initiation of the enquiry vide Annexure-7, in the absence of a proper charge-memo satisfying Rule 17(3), therefore, does not, in the opinion of this Court, cure the infirmity as noticed in the foregoing paragraph.

23. The above-mentioned infirmity at the threshold is compounded by what transpired during the course of the enquiry itself. It is not disputed and is indeed apparent from a plain reading of the Enquiry Report dated 04.07.2017 (Annexure-11 to the writ), and the Enquiry Report dated 07.06.2017 (Annexure-17 to the writ), that the Enquiry Officer did not examine a single witness in either of the proceeding.

Sri Subhash Chandra Singh, Chief Engineer (South), and Sri Ravindra Kumar Singh, Executive Engineer, Design Division who had jointly carried out the physical inspection on 14.04.2014 and 15.04.2014 and authored the Joint Inspection Report dated 22.05.2014 (Annexure-3 to the writ), which constitutes the very foundation of the first charge, were never examined nor produced for cross-examination. Likewise, in the



second proceeding, the Superintending Engineer, Minor Irrigation Circle, Chapra, who authored the charge relating to the waste material, was never examined. The Enquiry Officer, in each case, appears to have proceeded to record a finding of proof of the charge solely on the strength of the documents referred to in the charge-memo, without either of them being proved by the authors thereof and without the petitioner being accorded with any opportunity of cross-examination, in the manner as contemplated by Rule 17(14) of the CCA Rules, 2005. The same being impermissible in law.

24. The Hon'ble Supreme Court, in *State of U.P. & Ors. v. Saroj Kumar Sinha, (2010) 2 SCC 772*, in paragraphs 28 to 30, held that an Enquiry Officer, acting in a quasi-judicial capacity, is in the position of an independent adjudicator and is not a representative of the department or the disciplinary authority. Mere production or reference to documents is not sufficient, and the contents of such documents must be proved by examining the concerned witnesses, even where the enquiry proceeds ex parte, and that it is the duty of the Enquiry Officer to examine the evidence produced by the Department to satisfy himself that the un rebutted evidence is, in fact, sufficient to hold the charge proved. It has further been held therein that evidence recorded in a preliminary or fact-finding inquiry cannot, without more, be read as evidence in the regular departmental enquiry, since the delinquent employee is not associated with it, and has



been given no opportunity to cross-examine the persons examined in such preliminary inquiry.

Applying the aforesaid principle to the facts of the present case, the Joint Inspection Report (Annexure-3 to the writ), and the report of the Superintending Engineer, Chapra, being in the nature of such preliminary/inspection reports, could not have been read in evidence against the petitioner without their authors being examined and offered for cross-examination. The reliance of the Learned Counsel for the Petitioner on the decisions of this Court reported in ***Suresh Kumar Choubey vs. The Chairman, Uttar Bihar Gramin Bank reported in 2018(3) PLJR 545; The Union of India and Ors. Vs. Shashi Bhushan Prasad Ray and Ors. reported in 2015(4) PLJR 926 and Leela Devi vs. State of Bihar & Ors. reported in 2017(3) PLJR 676***, and the unreported decision in ***Manorma Kumari vs. State of Bihar & Ors. having C.W.J.C. No.11984 of 2025***, for the same proposition, is, therefore, well founded.

25. It is also significant, and this Court is constrained to observe, that the report of the Technical Examiner Cell of the Vigilance Department dated 29.02.2016 (Annexure-9 to the writ) which examined the very same allegations contained in the Joint Inspection Report (Annexure-3 to the writ) and specifically recorded that no financial irregularity and no excess payment had been made during the tenure of the Petitioner as Executive Engineer, Tube Well Division, Siwan was placed before the Enquiry



Officer by way of the supplementary show cause dated 28.06.2017 (Annexure-10 to the writ), yet the same finds no discussion or consideration in any manner whatsoever, in the Enquiry Report dated 04.07.2017 (Annexure-11 to the writ).

An Enquiry Officer, acting as a quasi-judicial authority, is obliged to consider all the material and relevant facts placed before him, including the material favourable to the delinquent employee, and to assign reasons for accepting or rejecting the same. The failure to even advert to a report of a competent departmental vigilance mechanism, which returns a finding directly contrary to the charge, renders the finding recorded in the Enquiry Report dated 04.07.2017, (Annexure-11 to the writ) unreasoned and, to that extent, perverse.

26. Learned counsel for the respondents has been unable to point out any provision of the CCA Rules, 2005, or any specific order of the competent authority directing that disciplinary action against the petitioner arising out of the two distinct proceedings namely, the proceeding culminating in the Enquiry Report dated 04.07.2017 (Annexure-11 to the writ) and the proceeding culminating in the Enquiry Report dated 07.06.2017 (Annexure-17 to the writ) be taken in a common proceeding within the meaning of Rule 22 of the CCA Rules, 2005.

The two proceedings arose out of separate charges relating to different subject matters and were initiated on different dates by separate



Resolutions (Annexure-7 dated 08.04.2015 and Annexure-14 dated 28.06.2016 to the writ), and were conducted by different Presenting Officers, consequently being concluded through two independent Enquiry Reports.

In the absence of an order of common proceedings under Rule 22, this Court is of the view that clubbing together of the findings recorded in two independent and unconnected proceedings for the purpose of awarding a single, composite punishment of reversion, as has been done vide the impugned order dated 09.05.2018 (Annexure-1 to the writ), is not warranted in law and thus requires interference.

27. In view of the findings recorded hereinabove, it transpires as follows:

- i. The memo of charge dated 24.11.2014 (Annexure-4(A) & 4(B) to the writ) does not satisfy the mandatory requirement of Rule 17(3)(ii)(a) & (b) of the CCA Rules, 2005;
- ii. No witnesses were examined, and no opportunity of cross-examination was accorded to the petitioner, in either of the two proceedings, which is contrary to the law laid down in Rule 17(6) & (14) of the CCA Rules, 2005;
- iii. The exculpatory report of the Technical Examiner Cell of the Vigilance Department (Annexure-9 to the writ) was not



considered while returning the finding in the Enquiry Report dated 04.07.2017 (Annexure-11 to the writ); and

iv. The composite punishment has been imposed on the basis of two independent proceedings without an order of common proceedings under Rule 22 of the CCA Rules, 2005.

28. In the considered opinion of this Court, it is stated that both the Enquiry Reports dated 04.07.2017 (Annexure-11 to the writ) and 07.06.2017 (Annexure-17 to the writ), are vitiated by law, being in contravention to the mandatory procedure as prescribed under Rule 17 of the CCA Rules, 2005 and further is in complete derogation / violation of the principles of natural justice. Thus, the same cannot form the basis for imposing a major penalty upon the petitioner.

29. As noticed hereinabove, while discharging a quasi-judicial function under Rule 17 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, the Enquiry Officer proceeded to record findings of guilt without the Department leading any oral evidence in support of the charges and without according the petitioner an effective opportunity to test the material relied upon against him. The authors of the Joint Inspection Report, namely, Sri Subhash Chandra Singh, Chief Engineer (South), and Sri Ravindra Kumar Singh, Executive Engineer, were not examined in the first proceeding, nor was the concerned officer upon whose report the second charge rested examined in the second proceeding.



Consequently, the petitioner was deprived of an effective opportunity to cross-examine the persons whose reports formed the foundation of the respective charges.

30. It is equally significant that the report of the Technical Examiner Cell of the Vigilance Department dated 29.02.2016, which contained findings directly in favour of the petitioner and contradicted the allegation relating to financial irregularity and excess payment, was placed before the Enquiry Officer, yet the Enquiry Report dated 04.07.2017, does not disclose of any consideration regarding the same, or any reason for discarding the said material.

An Enquiry Officer, while performing a quasi-judicial function, is required to independently assess not only the material relied upon by the Department but also the material placed by the delinquent employee in his defence. The failure to consider relevant and material evidence has resulted in causing serious prejudice to the petitioner.

31. This Court also finds it relevant to note that, in the third and independent departmental proceeding relating to the allegation of payment against a forged bank guarantee, the very same Enquiry Officer had extended the benefit of doubt to the petitioner and had held the charge to stand not proved. The present observations are not intended to suggest that the Enquiry Officer was bound to arrive at an identical conclusion in all the proceedings. However, the said circumstance does demonstrate that the



Enquiry Officer was conscious of his duty to assess the material available on record before recording a finding. The findings recorded in the present two proceedings, therefore, cannot be sustained where the mandatory procedure governing the conduct of a regular departmental enquiry was not followed and the material relied upon against the petitioner was not subjected to an effective process of proof and testing, thus being in total disregard to the principles of natural justice.

32. It is apposite to mention that in the case of ***Uma Nath Pandey & Others vs State of U.P and Others, reported in (2009) 12 SCC 40***, it has been held that :

“19. Natural Justice is the essence of fair adjudication, deeply rooted in tradition and conscience, to be ranked as fundamental. The purpose of following the principles of natural justice is the prevention of miscarriage of justice”.

33. The aforesaid judgment cites that adherence to the principles of natural justice as recognized by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties, or any administrative action involving civil consequences is in issue. These principles are well settled.

The first and foremost principle is what is commonly known as ***audi alteram partem*** rule. It says that no one should be condemned unheard. Notice is the first limb of this principle. It must be precise and



unambiguous. Time given for the purpose of defence should be adequate so as to enable the charged person to make his representation. It is after all an approved rule of fair play. In the *Celebrated case of Cooper v. Wandsworth Board of Works (1863) 143 ER 414*, the principles was thus stated in the following terms:

"Even God himself did not pass sentence upon Adam before he was called upon to make his defense. 'Adam' (says God), 'where art thou? hast thou not eaten of the tree whereof, I commanded thee that thou shouldest not eat ?'"

34. In jurisprudence and administrative law, the narrative of God questioning Adam in the Garden of Eden is famously used to illustrate the origin of the Principles of Natural Justice, specifically the rule of *audi alteram partem* i.e. the right to a fair hearing/no one should be condemned unheard.

35. The Hon'ble Supreme Court in the case of *D.K. Yadav vs J.M.A. Industries Ltd., (1993) 3 SCC 259*, enumerated the cardinal principle of reasonable opportunity of being heard. The Court stated that the major advantage of this principle is the prevention of an arbitrary action on behalf of the authority while adjudicating a case. The Court discussed the principles of reasonableness, non-arbitrariness and natural justice under Article 14 of the Constitution of India, 1950 observing that:



"8. The cardinal point that has to be borne in mind, in every case, is whether the person concerned should have a reasonable opportunity of presenting his case and the authority should act fairly, justly, reasonably and impartially. It is not so much to act judicially but is to act fairly, namely, the procedure adopted must be just, fair and reasonable in the particular circumstances of the case. In other words application of the principles of natural justice that no man should be condemned unheard intends to prevent the authority from acting arbitrarily affecting the rights of the concerned person.

36. Considering the aforesaid backdrop, this Court is constrained to state that the government servants, more precisely the government officials who act as disciplinary authorities in departmental proceedings are not expected to know the detailed intricacies of law, but nonetheless, by the virtue of the posts they hold, they are obligated to understand the underlying intersection of government servants and administrative law, being a crucial domain in public governance. Administrative law functions as the "legal watchdog" that governs the actions, procedures, and decision-making powers of public officials. A government servant with a robust knowledge of administrative law ensures that the state functions fairly, transparently, and within its constitutional limits, thus protecting the rule of law. The



least which this Court can expect from such officials is to abide and ensure that the core principles of natural justice in departmental proceedings are being followed in its letter and spirit.

37. The manner in which the enquiries in the instant case were conducted has resulted in avoidable prejudice to the petitioner and has led to this prolonged litigation. An Enquiry Officer exercising statutory and quasi-judicial powers is expected to act independently, fairly and in conformity with the procedure prescribed under the applicable Rules. The Enquiry Officer cannot merely proceed on the basis of the allegations contained in the charge or the conclusions recorded in a preliminary inspection report without ensuring that the Department establishes the alleged charge in accordance with the prescribed procedure by according reasonable and effective opportunity to the delinquent employee for defending his case.

38. Considering the issue that whether the matter shall be remitted / remanded to the concerned department to proceed in accordance with law, it is expedient to state the law as laid down in the case of ***State of Uttar Pradesh v. Ram Prakash Singh, reported in 2025 (2) PLJR (SC) 331.*** Paragraph 71 of the said judgement reads as follows:

“71. This, in this case, would mean reverting to the stage of production of witnesses on behalf of the department. When not a single witness could be produced for



examination in 2010 and 2014, we do not think that witnesses would now be available to support the charges. Even otherwise, these proceedings have certain incidents of 2004-05 as the origin. Having regard to the lapse of time since then coupled with the retirement of the respondent from service in 2010 and, more particularly, when the appellant despite an earlier opportunity granted by the Tribunal has failed to avail the same by continuing the enquiry in accordance with law, it would be highly unfair and unjust to subject the respondent to face the enquiry once again. Gravity of the offence alleged to have been committed is certainly a vital consideration; however, repeated opportunities cannot be claimed without there being overwhelming public interest warranting such opportunity. No doubt, the respondent was charged with involvement in a financial scam but a line has to be drawn. Or else, it could be an unending affair till such time based on a legal and valid report of enquiry, the disciplinary authority passes an appropriate order. On facts, we are satisfied that second opportunity was not required to be given.”

39. Even in the present case, it is apparent that not a single witness was produced in 2014 and hence, this Court do not think that the witnesses would now be available to support the charges in view of the aforesaid decision which has been rendered. Having regard to the lapse of time, it would be unfair and unjust to the Petitioner to face the enquiry once again. Repeated opportunities cannot be claimed without there being



overwhelming public interest warranting such opportunity. If the case is allowed to be remanded, it would be an unending affair till such time based on a legal and valid report of enquiry, the disciplinary authority passes an order. The aforesaid case has also been observed and cited in the Full Bench decision of this Court in *Manisha Kumari & Others vs. State of Bihar & Others having LPA No. 1324 of 2019*.

40. In the facts and circumstances of the present case, as expressed hereinabove, this Court deems it appropriate to quash the order contained in **Memo No.1782 dated 09.05.2018** (Annexure-1 to the writ application) as well as the order passed under review contained in **Memo No.3336 dated 06.08.2018** (Annexure-2 to the writ application).

41. The question as to manner in which the intervening period is to be treated and the consequential monetary benefits, including the treatment of the intervening period and the question of subsistence allowance, if any, shall be determined by the competent authority in accordance with law.

42. The writ petition stands **allowed** to the extent indicated above.

(Kumar Manish, J)

sanjeev/-

AFR/NAFR	AFR
CAV DATE	19.08.2026
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Transmission Date	

