

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7118 of 2022

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Anil Kumar Lal Son of Late Shri Chandrika Prasad Resident of Flat no.201,
Nupur Apartment, Mohalla-Salimpur Ahra, (lane No.-1) Kadamkuan, P.S.-
Gandhi Maidan, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Patna Division, Patna.
3. The District Magistrate, Patna.
4. The Additional Collector, Departmental Proceeding, Patna.
5. The Circle Officer, Patna Sadar, Patna.
6. Sri Avinash Kumar, Electrical Executive Engineer, Electric Supply Division,
Kankarbagh, Patna.
7. The Senior Deputy Collector, Patna-Cum-member of three man Committee
Constituted to Make Preliminary Enquiry.
8. The Deputy Collector, Patna-Cum-member of three man Committee
Constituted to Make Preliminary Enquiry.
9. The Secreary, Regional Transport Authority, Patna-Cum-member of three
man Committee Constituted to Make Preliminary Enquiry.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Kaushik, Adv. Mr. Suryakant Kumar, Adv.
For the Respondent/s	:	Mr. Md. Khurshid Alam (Aag12)
For the SBPDCL	:	Dr. Anand Kumar, Adv. Mr. Rajan Prakash, Adv.

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 27-08-2025

This petition has been preferred by the petitioner for setting aside the order dated 13.02.2020, Annexure-1 whereby and whereunder, the petitioner has been dismissed from services, also under challenge is the order dated 24.03.2022 passed in Service Appeal No. 46 of 2020 by the Commissioner, Patna Division, Patna whereby the appeal preferred by the



petitioner has been dismissed.

2. The brief facts of the case are that one Devendra Kumar gave an application for mutation and fixation of rent with respect to the landed property situated at Mauja Hanuman Nagar, in the district of Patna bearing Khata No. 22, Plot Nos. 63, 64 and 72, Area 11 dismill, 20 dismill and 26 dismill respectively. At that time the petitioner was posted as Revenue Clerk on 13.07.2016, he submitted his inspection report giving finding that the property is registered in the name of Birbal S/o Roopchand in the survey khatian, it was further reported by him that the said Devendra Kumar is in the possession of the property and steps can be taken for mutation. The C.O. sent the records to DCLR for further action and subsequently DCLR on 19.08.2016 allowed the claim of Devendra Kumar, then on 03.09.2016 the C.O. issued orders in favour of said Devendra Kumar. Subsequently, a claim was made by the Bihar State Electricity Board that the landed property which is mutated in the name of Devendra Kumar belongs to the electricity board where power substation exists. On the basis of said claim, three men committee was constituted for conducting an inquiry into the aforesaid mutation by the order of Commissioner. On 22.06.2017, the committee submitted its report, Annexure – 5,



on the same day an FIR has been registered against the petitioner on the basis of said report of the committee. On 22.06.2017 a measurement report was also submitted by Anchal Amin, Patna Sadar recording a finding that the disputed property does not belong to the Power Substation. Subsequently, charge sheet was issued to the petitioner, four charges were levelled against him vide Annexure - 10. The inquiry officer submitted its enquiry report, Annexure – 13 charge nos. 1, 2 and 3 were found proved whereas charge no. 4 was not found proved. Subsequently, on the basis of said inquiry report second show cause notice was issued to the petitioner which has been replied by him and vide order dated 13.02.2020 petitioner has been punished and his service has been dismissed. The appeal preferred by the petitioner is also rejected, hence this writ petition.

3. It is submitted by the learned counsel for the petitioner that no list of witnesses was given along with the charge memo and no witnesses were examined by the inquiry officer during course of inquiry to prove the charges. There is no proof of the contention that the disputed land belongs to the Government of Bihar. In spite of that the inquiry officer wrongly arrived on the conclusion that the charge nos. 1, 2 and 3 levelled



against the petitioner are duly proved. According to the counsel this is a case of no evidence, therefore, the finding as recorded by the inquiry officer is perverse and bad in law. He further submits that the presenting officer vide his opinion, Annexure – 12 himself admitted that the landed property is rightly recommended for mutation after fulfillment of the procedure. It was further opined by him that the petitioner has made recommendation in accordance with law and charges are not proved against him, even after that the inquiry officer found charges to be proved. It is further submitted by the counsel that the petitioner has merely made recommendation but the order of mutation was issued by the C.O. on the directions given by the DCLR. The order of mutation can be challengeable under the Bihar Land Mutation Act (Bihar Land Reforms Act) and therefore, the impugned order of dismissal from service of the petitioner is highly arbitrary and unreasonable. The Revenue Clerk had no power to issue orders relating to the mutation or rent receipts. Reliance had been placed by the counsel upon *Satyendra Singh vs. State of Uttar Pradesh and Another*, [2024 SCC Online SC 3325], *Roop Singh Negi vs. Punjab National Bank*, [(2009) 2 SCC 570], *State of Uttar Pradesh and Others vs. Saroj Kumar Sinha*, [(2010) 2 SCC 772].



4. Learned counsel for the respondent-State opposes the argument raised by the counsel and submits that on the basis of material available on record the inquiry officer rightly arrived on the conclusion that the charge nos. 1, 2 and 3 are duly proved against the petitioner and the disciplinary authority rightly passed the order of punishment against the petitioner.

5. Heard learned counsel appearing for both the parties, perused the documents annexed with the petition as well as the counter affidavits submitted by the respondent-State.

6. Perusal of the charge memo i.e. Annexure – 10 clearly shows that along with charge memo no list of witnesses was prepared nor provided to the petitioner which has not been disputed by the respondents. Therefore, there is a clear violation of Rule 17 (3) of The Bihar Government Servants' Conduct Rules, 2005.

7. Perusal of the charge memo further shows that there were four charges made against the petitioner and the inquiry officer arrived on the conclusion that the charge nos. 1, 2 and 3 are duly proved however, charge no. 4 is not proved. Perusal of Annexure- 12 dated 01.01.2018 the opinion submitted by the presenting officer further shows that it was opined by him that the landed property has rightly been recommended for



mutation after fulfilling of procedures. It was also opined that the delinquent has made recommendations in accordance with law and the charges are not true against him. In spite of that the inquiry officer proceeded further with the inquiry proceeding.

8. Perusal of the inquiry report further shows that without recording statement of any of the witnesses nor tendering any document by the department the inquiry officer arrived on the conclusion that the charges under 1, 2 and 3 as levelled against the petitioner are duly proved. The finding as recorded by inquiry officer is not based upon any evidence available on record rather it is based upon the explanation submitted by the petitioner only. However, the disciplinary authority as well as the appellate authority at the time of passing of their order did not consider these and passed the order of dismissal and affirmed the order of dismissal of the petitioner.

9. It is a case of no evidence and without any evidence the inquiry officer wrongly arrived on the conclusion that the charges levelled against him are duly proved and on the basis of said faulty inquiry report the disciplinary authority passed the order of dismissal. Hence, all the impugned orders are liable to be set aside.

10. Accordingly, the order dated 13.02.2020,



Annexure-1 passed by the District Magistrate, Patna and order dated 24.03.2022 passed by the Commissioner, Patna Division, Patna respectively are hereby set aside. Taking into consideration the fact that during the pendency of the petition the petitioner has superannuated from the services, he is entitled to get entire consequential benefits from the order dated 13.02.2020 till his date of superannuation.

11. With the aforesaid observation, this writ petition is allowed.

(Arvind Singh Chandel , J)

Siddharth Soni/-

AFR/NAFR	NA
CAV DATE	NA
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