

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10204 of 2016

Dilip Kumar Rai Son of Ram Lagan Rai Resident of Village - Harpusa, Police Station - Pusa, District - Samastipur.

... .. Petitioner/s

Versus

1. Rajendra Agricultural University
2. Vice-Chancellor, Rajendra Agricultural University, Bihar, Pusa, Samastipur.
3. The Director, Administration, Rajendra Agricultural University, Pusa, Samastipur.
4. The Principal-Cum-Superintendent, Tirhut College at Dholi, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sumeet Kumar Singh Mr. Nikhil Singh Ms. Deepali Singh Mr. Kumar Vikram
For the Respondent/s	:	Mr. Arvind Ujjwal

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER

C.A.V.

Date : 19-11-2025

1. The present writ application has been filed for quashing the order dated, 22.09.2015, contained in Memo No. 131 issued by the Director (Administration), Rajendra Agricultural University, Pusa, Samastipur, whereby the petitioner has been dismissed from services with immediate effect and a further direction has been issued for recovery of the price of 138 Sheesham trees worth about Rs. 7,50,869/-. The petitioner has further prayed for a direction upon the respondents to reinstate him in service with all consequential



benefits.

2. I.A. No. 01 of 2024, which was allowed vide order, dated 08.02.2024, wherein, the additional prayer of the petitioner has been allowed for quashing of the Office Memo No. 3, dated 23.01.2024, Enquiry Report, dated 15.12.2014, Resolution No. 12, dated 31.03.2014, and Memo of Charge, dated 31.03.2024.

3. The case of the petitioner in the present writ application is that the petitioner was appointed as a Livestock Assistant on 08.11.1983 in the Cattle Farm, Pusa, under the Rajendra Agricultural University (in short "RAU"), and was subsequently promoted to the post of Field/Dairy Overseer vide Office Order, dated 21.01.2002.

4. The Cattle Farm is located on the bank of the river Gandak. On 16.07.2004, a devastating flood occurred in the Gandak river, as a consequence of which a substantial number of trees were uprooted and washed away from the farm premises. The petitioner promptly reported the loss of 138 Sheesham trees to the Superintendent, Cattle Farm, through a written report dated 27.09.2004, which was received by one Hari Lal Ram. The said report was accepted and no further action was taken at that stage.



5. The petitioner continued to serve without any blame and was transferred vide order, dated 10.08.2009, to the Tirhut College of Agriculture, Dholi, Muzaffarpur, where he formally handed over charge on 02.07.2011.

6. The controversy revived in the year 2012, when, vide letter, dated 24.02.2012, the petitioner's last pay slip was withheld on the ground that he had not handed over charge of 140 Sheesham trees. Subsequently, vide letter, dated 02.06.2012, the petitioner was called upon to explain the alleged loss of the said trees. In response, he submitted his written explanation on 08.06.2012, clarifying that the loss had already been reported on 27.09.2004, reiterating that the trees had been washed away during the 2004 floods. He further stated that he has no responsibility for the loss, as chowkidars had specifically been deputed for the purpose of safeguarding the trees.

7. Despite his explanation, a show cause notice was issued to the petitioner vide Memo No. 110, dated 26.12.2012, alleging therein that on the basis of an Enquiry Committee's findings no evidence of uprooting/loss of trees was found and that the trees appeared to have been illegally removed. The petitioner filed his reply to the show cause on 12.01.2013 emphasizing the fact that the loss was reported



contemporaneously in 2004, that the area was under floodwater for over a month, that senior officers had verified and accepted his report and that after eight years no meaningful physical verification could be carried out. He also pointed out that after the flood a protection dam was rebuilt in 2005, for which, soil was excavated from the forest area making it impossible to locate traces of the uprooted trees after such a long delay. The Superintendent himself had admitted deployment of watchmen in the area and no allegations were ever raised against him till 2012.

8. Notwithstanding the petitioner's reply, the University, vide Resolution No. 12, dated 31.03.2014, initiated departmental proceedings in connection with the alleged loss of 138 Sheesham trees during the year 2004. The said resolution was passed not only against the petitioner but also against six other officers and employees of the University. Dr. M. K. Mallick, the Conducting Officer and Presenting Officer, namely, Dr. Pardeep Kumar Ram, were appointed and a Memo of Charge was subsequently framed against the petitioner. Upon service of the charge memorandum pursuant to Resolution No. 12, dated 31.03.2014, the petitioner submitted his reply on 24.04.2014, categorically denying all allegations levelled



against him.

9. Despite his denial, the Inquiry Officer submitted his enquiry report on 15.12.2014, which was subsequently communicated to the petitioner on 28.02.2015. The report states that a University-level Inquiry Committee had earlier been constituted on 28.05.2012, which collected written statements from several officials, including Dr. S.K. Choudhary, Dr. R.P. Pandey, Sri Hiralal Ram, Sri Dilip Kumar Rai, the chowkidars, and the Estate Officer. The Committee also undertook physical verification of the site.

10. In its findings, the Committee ruled out the possibility that 138 Sheesham trees had been washed away during the 2004 flood. Instead, it observed that no regular verification of standing trees had been carried out which allowed the shortage or theft to remain undetected. It further noted several procedural irregularities, particularly that Sri Hiralal Ram had accepted the petitioner's complaint in violation of official procedure without making any proper diary entry, thereby leaving scope for possible manipulation including the likelihood that the petitioner might have withdrawn his own complaint. On the basis of the collected statements, site



verification, and earlier reports, the Committee concluded that the petitioner was solely responsible for the missing or theft of 138 Sheesham trees during his tenure.

11. Pursuant to the enquiry report, the Director (Administration) of the University issued Letter No. 32, dated 13.03.2015, calling upon the petitioner to submit his reply within 15 days. In response, the petitioner, vide representation, dated 20.03.2015, requested that the findings of the enquiry be supplied to him in Hindi. Acting upon the said request, the University, vide communication, dated 13.04.2015, furnished the Hindi version of the enquiry materials to the petitioner.

12. Thereafter, the petitioner submitted his reply on 27.04.2015 in response to the communication, dated 13.04.2015, wherein he requested the supply of additional documents, including copies of the duty chart of chowkidars, orders issued by the Superintendent and any FIR lodged with respect to the alleged theft of trees, so as to enable him to effectively defend himself. He further pointed out that the letter, dated 13.04.2015, had been issued without any signature. However, the aforesaid documents were never furnished to the petitioner.



13. Ultimately, vide Memo No. 131, dated 22.09.2015, the order of punishment was passed and the petitioner was dismissed from services with immediate effect and a direction for recovery of the balance amount of the cost of 138 Sheesham trees to be deducted from the petitioner's final dues was passed.

14. Learned counsel for the petitioner argued that the entire departmental proceeding is vitiated by grave procedural irregularities, violation of principles of natural justice and non-compliance with the mandatory provisions of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as the "CCA Rules, 2005").

15. It is submitted that neither the list of documents nor the list of witnesses, relied upon in support of the charges, were ever furnished to the petitioner along with memo of charge. No oral enquiry was conducted, no witnesses were examined and no documents exhibited during the course of enquiry by the Presenting Officer. The date of enquiry was not fixed, the petitioner was not given any information regarding the date of enquiry proceeding.



16. The petitioner was denied opportunity to cross-examine witnesses during course of enquiry. Such denial of opportunity strikes at the very root of the enquiry and constitutes a violation of principle of natural justice rendering the entire proceeding unsustainable in law.

17. Contrary to the provisions of Rule 14, 17 and 18, the Inquiry Officer chose to rely upon the findings of Preliminary Inquiry Committee constituted prior to initiation of departmental enquiry against the petitioner. The petitioner was neither associated with the said preliminary enquiry nor afforded any opportunity to cross-examine the witnesses or rebut the materials collected during course of enquiry.

18. Reliance upon such an ex parte preliminary report which is only meant for determining the existence of a prima facie case is impermissible in a regular disciplinary proceeding that too without supplying the report of the preliminary enquiry during the course of departmental enquiry, this vitiates the enquiry in its entirety.

19. Although a Presenting Officer, namely, Dr. Pradeep Kumar Ram, was appointed, the Inquiry Officer himself assumed the role of the Department's representative. In



his report, he recorded that there was “no need to summon witnesses as their version would not differ from earlier statements.” Such conduct shows that the Inquiry Officer acted both as judge and prosecutor, an impermissible dual role that completely undermines the impartiality and fairness of the enquiry.

20. The findings recorded by the Inquiry Officer are thus purely on conjecture, surmise, and assumptions, amounting to a clear case of no evidence in the eyes of law.

21. He further submits that initiation of the disciplinary proceeding in 2012 for an alleged act of 2004, without any fresh evidence or justification, is ex facie arbitrary and actuated by malice and amounts to initiation of Departmental proceeding on stale charges. Such inordinate and unexplained delay has caused serious prejudice to the petitioner, as the relevant records and witnesses were no longer available for his defence. The entire exercise, therefore, is vitiated by arbitrariness and mala fides.

22. It is further submitted that the valuation of the alleged loss has been arbitrarily altered from Rs. 2.5 lakhs to Rs. 7.5 lakhs without any supporting material on record. Despite a



recovery of Rs. 2,40,000/- already having been effected from the petitioner's salary, the disciplinary authority imposed a fresh punishment of dismissal along with recovery of the same amount, thereby punishing the petitioner twice for the same alleged loss. Such action clearly amounts to double jeopardy, which is impermissible both under service jurisprudence and constitutional principles.

23. It is also significant to note that the entire assessed amount of Rs. 7,50,869/- has already been recovered from the petitioner, even though the legality and validity of such recovery have never been examined by any competent authority or forum.

24. In view of the aforesaid submissions, it is respectfully contended that the impugned dismissal order dated 22.09.2015 is unsustainable in law and fact, being the product of a procedurally flawed, biased, and evidence-less enquiry. The same, therefore, deserves to be quashed and set aside, with a direction for reinstatement of the petitioner with all consequential service benefits.

25. In support of his contention, learned Counsel for the petitioner relies upon the decisions of the Supreme Court



as well as this court also such as follows:-

- a. Roop Singh Negi v. Punjab National Bank and Others, reported in (2009) 2 SCC 570,
- b. State of Uttar Pradesh and Others v. Saroj Kumar Sinha, reported in (2010) 2 SCC 772,
- c. Satendra Kumar Gupta v. State of Bihar, 2025 (2) PLJR 537,
- d. Amlendra Ghosh v. North Eastern Railway, AIR 1960 SC 992,
- e. Champak Lal, Cheenamal Lal Shah v. Union of India, AIR 1964 SC 1854,
- f. Ram Tirat Khar v. State of Maharashtra, (1997) 1 SCC 299,
- g. Uday Pratap Singh v. State of Bihar, 2017 (4) PLJR 195,
- h. Sudeshwar Shah v. State of Bihar, 2024 (1) PLJR 453,
- i. Brija Singh v. State of Bihar, 2021 (4) PLJR 148

26. On the other hand, learned counsel for respondents argued that departmental proceedings was conducted strictly in accordance with law and in full compliance



with the provisions of the CCA Rules, 2005. The petitioner was served with the charge-memo and granted adequate opportunity to submit his written reply. The Inquiry Officer, after considering all materials available on record and evaluating the evidence objectively, submitted a reasoned report holding the charges proved against the petitioner.

27. He further argued that oral examination of witnesses or cross-examination is not a sine qua non in every disciplinary proceeding, particularly where documentary evidence is sufficient to establish the charge. In the present case, the records, reports, and contemporaneous materials collectively demonstrate that the shortage occurred during the petitioner's tenure of custody, thereby establishing clear negligence on his part.

28. He next submits that during the relevant period, the petitioner was functioning as the custodian of the University Dairy Farm and his responsibility included safeguarding all valuable assets of the University, including the Sheesham trees standing within the farm premises. By office order, dated 10.08.2009, the petitioner was transferred to the Tirhut College of Agriculture, Dholi, and was directed to hand



over charge to one Shri Benga Raut. However, the petitioner delayed handing over charge for almost two years, until 02.07.2011, and upon such handing over charge, a glaring shortage of 138 Sheesham trees was detected. The said loss, it is contended, is directly attributable to the petitioner's gross negligence and dereliction of duty.

29. The petitioner's explanation that the said trees were washed away in the floods of 2004 is a belated afterthought, raised only to evade responsibility once the shortage came to light. The records reveal no contemporaneous report or official entry supporting the petitioner's claim of loss due to flood.

30. To ascertain the extent of loss and fix responsibility, a Committee was constituted vide order, dated 28.05.2012, which, after a detailed field inspection and examination of relevant documents submitted its inquiry report, dated 16.08.2012, categorically rejecting the petitioner's explanation. The Committee found that no evidence existed to substantiate the claim that the trees were lost in 2004 and further observed that all Chowkidars had, in fact, been deployed during the flood season for protection work, thereby negating the plea



that the trees were damaged by natural calamity.

31. It is further pointed out that the loss was assessed on the basis of expert evaluation. Initially, the value of the missing trees was estimated at Rs. 2,34,698/-, but upon further verification and re-assessment by the Divisional Forest Officer, Begusarai, through letter, dated 12.03.2011, the value was revised to Rs. 7,50,869/-. The said valuation was based on official correspondence and technical inputs from the competent authority of the Forest Department and hence cannot be termed arbitrary or without foundation. On that basis, recovery of the assessed amount was duly directed from the petitioner.

32. It has been submitted that in exercise of power of judicial review, the Court may not go into the sufficiency of evidence.

33. In the present case, the Inquiry Officer, on the basis of report of Preliminary Inquiry Committee, on spot verification and written explanation, in response to the show-cause notice issued thereafter which did not differ from each other in any material respect, had rightly found the charges proved against the petitioner.



34. It is lastly contended that the punishment imposed is proportionate to the gravity of the misconduct. The petitioner, while holding a position of trust and responsibility, failed to protect valuable public property, causing substantial financial loss to the University. The Disciplinary Authority, after due consideration of all records and evidence, imposed the penalty of dismissal along with recovery of loss, which is commensurate with the nature of the delinquency and fully justified in law. The respondents thus submit that the writ petition is devoid of merit and liable to be dismissed.

35. He relies upon the following judgments in support of his arguments:-

- i. State of Haryana v. Ratan Singh - (1977) 2 SCC 491
- ii. Tara Chand Vyas v. Chairman & Disciplinary Authority – (1997) 4 SCC 565
- iii. Director General, ICMR v. Dr. Anil Kumar Ghosh – (1998) – 7 SCC 97
- iv. Kendriya Vidyalaya Sangathan v. Arun Kumar Madhavrao Sinddhave - (2007) 1 SCC 283

36. I have heard learned counsel for the parties and perused the materials on record.

37. From perusal of the memo of charge, it



appears that memo of charge contains list of certain letters/documents issued by different authorities, but list of witnesses are not there in the memo of charge by which the department proposes to sustain the article of charges. This Hon'ble Court, in **CWJC No. 7439 of 2021**, in the case of **Sudarshan Singh v. The State of Bihar and Ors**, in paragraph nos. 4 and 5 has observed as follows, which has been reproduced hereinbelow:-

“4. Respondent Nos. 3 and 7 filed counter affidavit.

Para 9 of the counter affidavit reads as under:-

9. That it is made clear that in compliance of the provision made under Rule 17(3) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, a copy of the aforesaid resolution was duly communicated and served to the petitioner along with the Articles of charges and list of documents. But the list of witnesses was not prepared and served to the petitioner. However, the petitioner also did not make any request for examination of witnesses.



5. In the light of aforesaid infirmity that charge-memo was not accompanied by list of witnesses and further proceedings is vitiated due to non-compliance of Sub Rule 3 of Rule 17 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005.”

38. In the present case also the list of documents are there having the names of authorities by whom the documents were issued, but no list of witnesses are there by which the department proposes to prove/sustain the charges which are there in the memo of charge.

39. Accordingly, further proceeding in the departmental enquiry is vitiated due to non-compliance of Sub Rule 3 of Rule 17 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005.

40. From perusal of the enquiry report, it transpires that the Inquiry Officer has primarily relied upon the Preliminary Inquiry Report, dated 16.08.2012, and the statement of the witnesses collected during that enquiry.

41. The petitioner was neither associated with



that enquiry nor a copy of the Preliminary Inquiry Report was furnished to the petitioner and also not made part of the memo of charge enlisting in the list of documents.

42. Reliance upon such ex parte Preliminary Inquiry Report by the Inquiry Officer that too without supplying the report of preliminary inquiry during course of departmental enquiry vitiates the enquiry in its entirety. The Inquiry Officer, in his report, has recorded that there was no need to summon witnesses as their version would not differ from earlier statements made during preliminary inquiry. Admittedly, the petitioner was neither associated in the preliminary Inquiry not afforded any opportunity to cross-examine the witnesses produced during preliminary inquiry or rebut the materials collected during course of enquiry.

43. The record revealed that though the Presenting Officer was appointed, but he did not lead any oral evidence nor exhibited any documents during course of enquiry.

44. The Inquiry Officer himself assumed the role of department's representative and prepared the enquiry report on his own ipse dixit. Sub Rule 14 of the Rule 17 of CCA Rules, 2005, prescribed that on the date fixed for the enquiry, the oral



and documentary evidence by which the article of charge are proposed to be proved, shall be produced before Disciplinary Authority, witnesses shall be examined by the presenting officer which may be cross-examined by the delinquent, the presenting officer shall be entitled to re-examine the witnesses, but non of the procedure as mandatorily prescribed under the CCA Rule, 2005, has been followed by the Inquiry Officer.

45. The date of enquiry was not fixed by the Enquiry Officer, no oral enquiry was held nor was any witnesses examined on behalf of the department to substantiate the charges leveled against the petitioner. The Inquiry Officer merely relied upon the preliminary enquiry conducted behind the back of the petitioner and submitted its report.

46. The Supreme Court in the case of **Anil Kumar v. Presiding Officer**, reported in **AIR 1985 SC 1121**, has held that an enquiry report with regard to a departmental enquiry conducted by the Enquiry Officer should not be based on the ipse dixit of the Enquiry Officer. It should show as to what are the charges levelled against the petitioner, how the departmental enquiry was conducted, what was the evidence that came on record, it should show analysis of the evidence and



conclusion of the Enquiry Officer based on reason to show that the evidence that came before the Enquiry Officer was analyzed in the backdrop of the explanation submitted by the petitioner.

47. The contention of the petitioner appears to be well founded that the departmental enquiry was not conducted in accordance with established procedure and was in violation of principles of natural justice and statutory mandate under Bihar Government Servants (CCA) Rules, 2005. The records indicate that the enquiry was conducted behind the back of the petitioner and that too was based upon the preliminary enquiry, in which, petitioner was not given opportunity to participate. No oral enquiry was held nor was any witnesses examined on behalf of the department to substantiate the charges levelled against the petitioner.

48. In a judgment reported in the case of **S. K. Verma v. The State of Bihar**, reported in **2000 (1) PLJR 116**, it has been held that during the enquiry no witness was examined as such the charges against the petitioner cannot be said to have been proved. It is well known principle that at the stage of enquiry, the petitioner is entitled to be given a reasonable opportunity to cross-examine the witnesses produced



to prove the charges. The petitioner also has a right to adduce evidence by producing witnesses.

49. In the present case, admittedly, no witness has been produced by the Presenting Officer and/or any documentary evidence exhibited by him to prove the charges. The Inquiry Officer arrogated the role of Presenting Officer and proved the charges on the basis of preliminary enquiry held behind the back of the petitioner. The copy of preliminary enquiry was also not supplied to the petitioner which is in gross violation of principles of natural justice. The order of punishment cannot be based upon said enquiry.

50. The Disciplinary Authority while passing the impugned order merely reproduced the findings of the Inquiry Officer which is in violation of established principle that disciplinary authority has to apply its own mind to the evidence and representation, submitted by the delinquent, before imposing punishment.

51. Furthermore, the alleged loss pertains to the year 2004, whereas, the departmental proceedings was initiated after eight year in the year 2012. The respondents have not offered any justification for this delay. The petitioner's



contemporaneous report, dated 27.09.2004, regarding washing of Sheesham trees in the flood was received by an official and no objection was raised for years thereafter. Revival of issue after such a long interval, when relevant records and witnesses were no longer available, has caused manifest prejudice to the petitioner.

52. The Supreme Court, in the case of **P. V. Mahadevan v. M. D., T. N. Housing Board**, reported in **(2005) 6 SCC 636**, has observed that inordinate and unexplained delay vitiates disciplinary action.

53. In the backdrop of the aforesaid discussions on fact and the law, in my opinion, the entire departmental proceeding is vitiated. Resultantly, I hold that the charges levelled against the petitioner cannot said to have been proved. There is gross procedural illegality, including the violation of principles of natural justice in conducting the enquiry by the respondent-authorities. Accordingly, order of punishment, bearing Memo No. 131, dated 22.09.2015, Enquiry Report, dated 15.12.2014, Office Order, dated 23.01.2014, and Resolution No. 12, dated 31.03.2014 (Memo of Charge, dated 31.03.2024), is hereby quashed.



54. The respondent-University is directed to reinstate the petitioner immediately with all consequential and monetary benefits, if the petitioner has not yet superannuated.

55. If the petitioner has superannuated, then respondents are directed to pay his entire consequential monetary benefits, including the retiral benefits. Respondents are also directed to refund the sum of Rs. 7,50,869/- recovered from the petitioner. The entire payment has to be made by the respondent-authorities within a period of three months from today.

56. This writ application is, accordingly, allowed.

(Anil Kumar Sinha, J)

ashwani/-

AFR/NAFR	AFR
CAV DATE	16.09.2025
Uploading Date	19.11.2025
Transmission Date	N.A.

