

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19888 of 2019

Umesh Kumar Sinha S/o Late Ram Kripal Rajak Resident of Village-
Chakalma, P.s.- Masaurhi, Distt.- Patna, At present resident of Beside Lakhan
Enclave Saubhagya Sharma patha, Rukanpura, Ps.- Rupaspur, Distt.- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. Accountant General Bihar, Patna
3. Additional Chief Secretary-cum-Principal Secretary Department of Home,
Govt. of Bihar, Old Secretariat, Patna
4. Director General of Police Govt. of Bihar, Old Secretariat, Patna
5. Additional Director General of Police (C.I.D.) Govt. of Bihar, Old
Secretariat, Patna
6. Special Secretary-cum-I.G. Department of Home, Govt. of Bihar, Old
Secretariat, Patna
7. Joint Secretary Department of Home, Govt. of Bihar, Old Secretariat, Patna
8. Deputy Secretary Department of Home, Govt. of Bihar, Old Secretariat,
Patna
9. Under Secretary Joint Secretary, Department of Home, Govt. of Bihar, Old
Secretariat, Patna
10. Secretary Bihar Public Service Commission, Bailey Road, patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Prabhakar Singh, Advocate
For the Respondent/s : Mr. Nadim Seraj -GP5

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

C.A.V. JUDGMENT

Date : 05-05-2026

1. Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner has filed the instant application for the
following reliefs:

“i. To quash the resolution dated 24-04-2019



issued vide File No- 3/Nya.-80-10/2017, Grih. Aarakshi-3333 by which 10% of the pension for five years is directed to be deducted under section 43(B) of the Bihar Pension Rules and its consequential follow up action.

ii. To any other relief / reliefs for which the petitioner is entitled for.”

3. The case of the petitioner in brief is that he worked in the capacity of a Director in the Forensic Science Laboratory at Patna from 31.3.2003 till the date of his retirement on 31.1.2018. While still in service, the petitioner was served with a show cause notice on 27.3.2017 by the respondents and the petitioner was asked to reply the same. The petitioner submitted his reply, which in the opinion of the respondent authorities was not satisfactory. The petitioner was served with a letter dated 14.6.2017 enclosing a copy of the memo of charge in *Prapatra 'ka'*. The petitioner was asked to submit his reply within 15 days or else appropriate steps would be taken under the Bihar Government Servant (Classification, Control and Appeal) Rules 2005 ('CCA Rules' in short). The petitioner submitted his reply on 10.7.2017. Taking into consideration the contents of the reply submitted by the petitioner, the respondents came out with a resolution dated 9.10.2017 under the signature of the Deputy Secretary, Home (Police) Department that a proceeding would



be started against him under the CCA Rules.

4. The petitioner submitted his reply to the charges mentioned in the memo of charge. As in the meantime, the petitioner superannuated from service on 31.1.2018, by order dated 6.3.2018 the proceeding against the petitioner was converted into a proceeding under Rule 43A of the Bihar Pension Rules.

5. The petitioner was asked to submit his final reply on 4.5.2018. The petitioner submitted his detailed reply dated 15.5.2018 before the Special Secretary, Home Department, Bihar, Patna.

6. The respondents thereafter came out with the resolution contained in memo no. 3333 dated 24.4.2019 under the signature of the Joint Secretary, Home (Police) Department, Government of Bihar imposing the punishment of deduction of 10% of pension for a period of 5 years against the petitioner. The order further stated that the punishment has the approval of the Bihar Public Service Commission.

7. It is against this order of punishment dated 24.4.2019 that the petitioner has preferred the instant writ application.

8. It is submitted by learned counsel for the petitioner that the Inquiry Officer erred in coming to the conclusion that the



charges leveled against the petitioner were proved. No pecuniary loss had been caused to the State Government and as such no order of punishment could be passed under Rule 43(b) or even under Rule 43(a) of the Bihar Pension Rules. It was lastly submitted that the petitioner had submitted a detailed reply to the second show cause and the respondents without considering the same came out with the order of punishment dated 24.4.2019. Non-consideration of the show cause was in teeth of the judgment of the Hon'ble Supreme Court in the case of Raj Kumar Mehrotra vs. State of Bihar; (2005) 12 SCC 256 and thus the same be set aside.

9. The application is opposed by learned counsel appearing for the State of Bihar. It was submitted that the petitioner has not been able to point out any procedural irregularities in conduct of the departmental proceedings. The petitioner was given opportunity at all stages and the charge against the petitioner being one of grave misconduct was found proved in the departmental proceeding. After retirement of the petitioner, passing of the order of punishment under Rule 43(a) of the Bihar Pension Rules, deducting 10% of the pension for a period of 5 years was absolutely correct. There is no merit in the writ application and the same be dismissed.



10. Heard learned counsel for the parties and perused the material on record.

11. The relevant facts in brief are that the petitioner who worked in the capacity of the Director of the Forensic Science Laboratory at Patna from 31.1.2003 till the date of his retirement on 31.1.2018, while still in service, was proceeded against in a departmental proceeding which was initiated on 9.10.2017 under Rule 17 of the CCA Rules. On the retirement of the petitioner on 31.1.2018, the proceedings were converted into one under Rule 43(b) of the Bihar Pension Rules.

12. On submission of the inquiry report by the Conducting Officer, finding the charges leveled against the petitioner to have been proved, a notice was issued to the petitioner on 4.5.2018, asking him to file his last explanation. The petitioner filed a detailed explanation on 15.5.2018 running into several pages and a copy of which has been brought on record as Annexure-8 to the writ application. On filing of the petitioner's explanation, the respondents came out with the order of punishment dated 24.4.2019 impugned herein.

13. It may be mentioned here that a perusal of the order of punishment dated 24.4.2019 shows that the same does not even mention about the detailed explanation furnished by the



petitioner on 4.5.2018 nor does it deal with any of the several defences or explanations raised by the petitioner in his reply.

14. The Hon'ble Supreme Court in the case of Raj Kumar Mehrotra (supra) held as follows:

“5. Without going into other issues raised, we are of the view that the impugned order of the respondent authority imposing punishment on the appellant cannot be sustained. Even if we assume that Rule 55-A which pertains to minor punishment was applicable and not Rule 55 which relates to major punishments, nevertheless Rule 55-A requires that the punishment prescribed therein cannot be passed unless the representation made pursuant to the show-cause notice, has been taken into consideration before the order is passed. There is nothing in the impugned order which shows that any of the several issues raised by the appellant in his answer to the show-cause notice were, in fact, considered. No reason has been given by the respondent authority for holding that the charges were

6. The appellant has since retired from service in December 2001. To a large extent, the issues raised in this appeal have therefore become practically academic. However, according to the appellant, the third punishment, namely, recovery of an amount of Rs. 5,00,000 from the



appellant's pension has been deducted from the appellant's pension. Learned counsel appearing on behalf of the respondents states that he is not in a position to confirm this. Whatever the position is and whatever has been deducted on the basis of the impugned order, shall be given back to the appellant within a period of six weeks from date. If the amount is not paid within the aforesaid period of six weeks, the respondents shall be liable to pay interest thereon at the rate of 10% per annum.

7. The appeal is accordingly allowed on the aforesaid terms.”

15. In the facts of the case, in the opinion of the Court, the order of punishment dated 24.4.2019 having been passed by the respondent authorities without taking into consideration the reply of the petitioner to the last notice and without dealing with the explanation furnished by the petitioner therein, the order of punishment is fit to be set aside on this ground alone.

16. In view of the facts and circumstances of the case, the order contained in memo no. 3333 dated 24.4.2019 issued under the signature of the Joint Secretary, Home (Police) Department, Government of Bihar, is set aside. The matter is remanded back to the respondent no. 7 to pass fresh order in accordance with law, taking into consideration the explanation furnished by the



petitioner in his reply dated 15.5.2018.

17. The writ application stands allowed with the above observations and directions.

(Partha Sarthy, J)

Bibhash

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CAV DATE	
Uploading Date	5.5.2026
Transmission Date	

