IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10673 of 2018

CNR No. BRHC010829822018

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Umesh Kr. Verma S/o Late Shatrughan Prasad, R/o Mohalla- Neel kantha Colony, Phase -II, Post Office, Ashiana Nagar, P.S.- Shashtri Nagar, District- Patna.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, General Administration Department , Government of Bihar, Old Secretariat,
3. The Additional Secretary, General Administration Department, Government of Bihar, Old Secretariat,
4. The Deputy Secretary, General Administration Department , Government of Bihar, Old Secretariat, Patna
5. The Under Secretary, General Administration Department , Government of Bihar, Old Secretariat, Patna
6. The Departmental Enquiry Commissioner, General Administration Department, Government of Bihar, Pat
7. The Secretary, Rural Development Department, Government of Bihar, Old Secretariat, Patna.
8. The Deputy Secretary, Rural Development Department, Government of Bihar, Old Secretariat, Patna.
9. The Collector Cum District Magistrate, Araria.
10. The Executive Engineer, MGNREGA, Araria.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Chitranjan Sinha, Sr. Advocate Mr. Navendu Kumar, Advocate
For the State	:	Mr. Raghwanand, G.A.-11 (now AAG-14) Mr. Prabhat Kumar, AC to G.A.-11 Mr. Babul Kumar, A.C. to AAG-14

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CORAM: HONOURABLE MR. JUSTICE KUMAR MANISH
CAV JUDGMENT
Date : 09-10-2026

1. Heard learned Senior Counsel for the petitioner and learned Counsel appearing on behalf of the State-respondents.

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2. The present writ application has been filed by the petitioner seeking the relief for quashing the resolution issued under Memo No. 08/Arop-01-313/2014 Sa. Pra. 17963 dated 29.12.2014 (Annexure-5 to the writ), by the General Administration Department, Government of Bihar, initiating a departmental proceeding against the petitioner. The petitioner further prays for quashing the notification/memo No. 412 dated 09.01.2015 (Annexure-7 to the writ), by which the departmental proceeding has been converted under Rule 43(b) of the Bihar Pension Rules; the supplementary charge-sheet/report dated 07.02.2015/28.04.2015 (Annexures- 10 and 11 to the writ), the inquiry report dated 29.01.2016 (Annexure- 22 to the writ), and the final punishment order dated 05.10.2016 (Annexure- 27 to the writ), wherein a deduction of 75% from pension of the Petitioner has been imposed upon the Petitioner. The Petitioner also prays for quashing of the order dated 07.03.2017, whereby the review filed by the Petitioner has been rejected. (Annexure- 29 to the writ).

Facts of the Case

3. The petitioner, having been initially appointed as a Deputy Collector in the Bihar Administrative Service in 1979, superannuated from active service on 31.12.2014, while posted as Director, Sainik Kalyan Nideshalaya, Patna, on the rank of Additional Secretary. During his active tenure as the Deputy Development Commissioner (DDC)-cum-Chief Executive Officer, District Rural Development Agency (DRDA), Araria, he discharged administrative responsibilities from 12.12.2006 to 20.10.2009. Years after the conclusion of his tenure at Araria, the

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District Magistrate, Araria, submitted allegations vide Letter No. 1431 dated 28.10.2014 (Annexure-1 to the writ) enclosing a draft "Prapatra-Ka" regarding purported irregularities in the execution and advance disbursements for the installation of High Mast Lamps under the Member of Parliament Local Area Development Scheme (MPLADS), and MLA Local Area Development Scheme across four assembly constituencies (Araria, Jokihat, Raniganj, and Forbesganj). The Rural Development Department forwarded this report to the General Administration Department (GAD) vide Letter No. 209386 dated 21.11.2014 (Annexure-2 to the writ).

Submissions on behalf of the Petitioner

4. The learned senior counsel for the Petitioner submits that although a departmental resolution under Memo No. 17963 (Annexure-5 to the writ) was purportedly signed on 29.12.2014 (two days prior to his superannuation), it was never served upon him during his active service. File notings (Annexure-6 to the writ), reveal that the charge-memo (Prapatra-Ka), was processed at the level of the Additional Secretary alone on 29.12.2014, without statutory cabinet/state-level ratification mandated under Rule 17(3) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

The resolution and charge-memo were dispatched through Speed Post only on 09.01.2015 (Annexure-8 to the writ), and the same were physically received by the petitioner on 10.01.2015, i.e. ten days post-superannuation. Placing reliance upon the judgment of ***John Seraphin v. State Bank of India,***

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reported in 2005 (1) PLJR 354, the petitioner asserts that departmental proceedings commence only upon actual service of the chargesheet.

5. Since the proceedings commenced after the retirement of the Petitioner on 10.01.2015, it stood automatically converted under Rule 43(b) of the Bihar Pension Rules, 1950, vide Memo No. 412 dated 09.01.2015 (Annexure-7 to the writ). The learned counsel for petitioner submits that Proviso (a)(ii) to Rule 43(b) strictly bars the initiation of proceedings for events that have occurred four years prior to the initiation of proceedings. As the alleged occurrence relates back to the year 2006–2009, the proceedings are therefore, barred by limitation. Resultantly, being void ab initio.

6. The petitioner submitted extensive written defense statements on 24.11.2015 (Annexure-12 to the writ), and 09.12.2015 (Annexure-13 to the writ), which were even supported by 18 documentary annexures (detailing short-term tender notices published in Dainik Jagran on 22.08.2007, Purchase Committee meeting minutes dated 30.08.2007, bank guarantees of ₹50,000 deposited via bankers' cheques in SBI Araria Account No. 01100050258, compliance with MPLADS Para 4.15 regarding advance disbursements, warning letters and legal notices issued to the contractor vide DRDA memos dated 08.05.2008, 09.07.2008, 14.11.2008, and 17.04.2009, criminal FIR No. 485/09 lodged against the contractor on 19.10.2009 (Annexure-30 to the writ), site verification reports by the Assistant Engineer, Electricity Supply Sub-Division, Araria, and DDC Araria's Letter No. 1651 dated 20.08.2010, addressed to the Accountant General). These

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records establishes that out of total advances of ₹1,58,11,200/- works valued at ₹1,39,72,000/- were duly executed on site, thus, leaving only an unadjusted balance of ₹18,39,200/-.

7. The Disciplinary Authority originally framed 4 charges. However, vide Letter No. 6233 dated 28.04.2015 (Annexure-10 to the writ), the Deputy Secretary (GAD) and District Magistrate, Araria vide his Letter No. 151 dated 07.02.2015, (Annexure-11 to the writ), unilaterally imported two additional charges without any formal executive resolution, expanding the counts to 6. The Inquiry Officer evaluated all 6 counts in his report (Annexure-22 to the writ), despite expressly noting that Charge No. 6 was unproven ("प्रमाणित नहीं है").

Furthermore, the Inquiry Officer abruptly closed the inquiry on 30.12.2015 (Annexure-20 to the writ) without examining any prosecution witnesses and relied upon an ex-parte inspection report submitted post-hearing by the District Magistrate on 26.12.2015 (Annexure-21 to the writ), without furnishing a copy of the same to the petitioner and without affording him an opportunity to cross-examine its author.

8. To conclusively address the petitioner's vehement contention that the initiation of departmental proceeding was barred by the four-year statutory limitation under Rule 43(b) and to clear up whether the proceeding validly commenced on the date of the resolution i.e. 29.12.2014, or upon actual service after retirement i.e. on 10.01.2015, this Court specifically directed the State-respondents to produce the original records of the case.

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In compliance thereof, the respondents produced the complete original administrative files and dispatch records, which forms part of the record.

Submissions on behalf of the State

9. Relying upon these original records, the State contended that the departmental proceeding was legally initiated on 29.12.2014, while the petitioner was in active service. The learned counsel for the State - Respondents submit that an attempt was made to communicate the resolution vide a special messenger on 31.12.2014, and upon superannuation on the same day, the proceeding automatically was converted to be a proceeding under Rule 43(b) vide Memo No. 412 dated 09.01.2015 (Annexure- 7 to the writ).

10. It was submitted that the District Magistrate's reports (Annexure- 11 and Annexure- 21 to the writ), substantiated financial irregularities and non-installation of lights, causing wrongful loss to the government. The inquiry report (Annexure-22 to the writ) proved charges 1, 2, 3, and 5 fully, and charge 4 partially.

Following the consultation with the Bihar Public Service Commission (BPSC) vide letter dated 20.09.2016, the punishment of 75% permanent pension deduction was lawfully imposed vide Notification dated 05.10.2016 (Annexure-27 to the writ), and the review application was rightly rejected on 07.03.2017 (Annexure-29 to the writ).

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Issues involved in the Case

11. Having heard learned counsel for the parties and having perused the materials on record, the principal issues which falls for consideration are:

i. Whether the departmental proceeding initiated against the petitioner post-retirement is barred by the statutory limitation of four years under the proviso to Rule 43(b) of the Bihar Pension Rules; and

ii. Whether the punishment order dated 05.10.2016, was passed in accordance with the principles of natural justice and statutory rules as mandated under Rule 18 of the Bihar CCA Rules, 2005, and the established evidentiary standards governing departmental misconduct?

Considerations

12. The law relating to the initiation of departmental proceedings post-superannuation under Rule 43(b) of the Bihar Pension Rules is well settled. In state proceedings, initiation takes effect from the date of actual service of the charge-sheet/memo of charges upon the employee. The proviso to Rule 43(B) explicitly mandates that a departmental proceeding, if not instituted while the government servant was in service, shall not be instituted in respect of any event which took place more than four years before such institution.

13. At this juncture, it would be relevant to point out Rule 43(b) of the Bihar Pension Rules,

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"The State Government further reserve to themselves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period, and the right of ordering the recovery from a pension of the whole or part of any pecuniary loss caused to Government if the pensioner is found in departmental or judicial proceeding to have been guilty of grave misconduct; or to have caused pecuniary loss to Government by misconduct or negligence, during his service including service rendered on re-employment after retirement:

Provided that—

(a) such departmental proceedings, if not instituted while the Government servant was on duty either before retirement or during re-employment:

(i) shall not be instituted save with the sanction of the State Government;

(ii) shall not be instituted in respect of an event which took place more than four years before the institution of such proceedings; and

(iii) shall be conducted by such authority and at such place or places as the State Government may direct and in accordance with the procedure applicable to proceedings on which an order of dismissal from service may be made;

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(b) judicial proceedings, if not instituted while the Government servant was on duty either before retirement or during re-employment, shall be instituted in accordance with sub-clause (ii) of clause (a); and

(c) the Bihar Public Service Commission, shall be consulted before final orders are passed.

Explanation. —For the purposes of the Rule—

(a) departmental proceeding shall be deemed to have been instituted when the charges framed against the pensioner are issued to him or, if the Government servant has been placed under suspension from an earlier date, on such date; and

(b) judicial proceedings shall be deemed to have been instituted—

(i) in the case of criminal proceedings, on the date on which a complaint is made or a charge-sheet is submitted to a criminal court; and

(ii) in the case of civil proceedings, on the date on which the complaint is presented, or as the case may be, an application is made to a Civil Court."

It stipulates that the State Government reserves the right of withholding or withdrawing a pension or any part of it, whether permanently or for a specified period, if the pensioner is found in departmental or judicial proceeding to have been guilty of grave misconduct or to have caused pecuniary loss to Government

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by misconduct or negligence during his service. However, the proviso strictly bars initiation regarding events occurring beyond four years prior to initiation.

14. In evaluating the maintainability of the present departmental proceedings against the delinquent officer, reliance is placed on the authoritative pronouncement of the Hon'ble Supreme Court in ***State of Bihar v. Mohd. Idris Ansari reported in 1995 Supp (3) SCC 56***. Paragraph 7 and 10 of the same stipulates as follows,

> *"7. A mere look at these provisions shows that before the power under Rule 43(b) can be exercised in connection with the alleged misconduct of a retired government servant, it must be shown that in departmental proceedings or judicial proceedings the government servant concerned is found guilty of grave misconduct. This is also subject to the rider that such departmental proceedings shall have to be in respect of misconduct which took place not more than four years before the initiation of such proceedings. It is, therefore, apparent that no departmental proceedings could have been initiated in 1993 against the respondent under Rule 43(a) and (b), in connection with the alleged misconduct, as it alleged to have taken place in the year 1986-87. As the alleged misconduct by 1993 was at least six years' old, Rule 43(b) was out of picture…..*
>
> *10. So far as the second type of cases are concerned the proof of grave misconduct on the part of the government servant concerned*

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during his service tenure will have to be culled out by the revisional authority from the departmental proceedings or judicial proceedings which might have taken place during his service tenure or from departmental proceedings which may be initiated even after his retirement in such type of cases. But such departmental proceedings will have to comply with the requirements of Rule 43(b). Consequently a retired government servant can be found guilty of grave misconduct during his service career pursuant to the departmental proceedings conducted against him even after his retirement, but such proceedings could be initiated in connection with only such misconduct which might have taken place within 4 years of the initiation of such departmental proceedings against him…..So far as that ground was concerned, on a conjoint reading of Rule 43(b) and Rule 139(a) there is no escape from the conclusion that as the alleged misconduct was committed by the respondent prior to 4 years from the date on which the show-cause notice dated 27-9-1993 was issued, the appellant authority had no power to invoke Rule 139(a) and (b) against the respondent on the ground of proved misconduct."

The Apex Court categorically laid down that under Explanation (a) to Rule 43 (b) of the Bihar Pension Rules, 1950, a departmental proceeding is deemed to

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be instituted only on the exact date when the chargesheet (Form 'Ka') is formally issued/served upon the government servant.

15. Even, the explanation (a) of Rule 43 (b) clearly expresses that a departmental proceeding shall be deemed to have been instituted against a government servant / pensioner when the charges framed against the pensioner are issued to him

16. This Court has meticulously scrutinized the original records produced by the respondents to clear up the controversy regarding the starting point of the proceedings. The original file notings and dispatch registers conclusively reveal that no departmental resolution or charge-memo was ever served upon the petitioner during his active service prior to his superannuation on 31.12.2014.

The plea taken by the State regarding an alleged attempt to serve through a special messenger on 31.12.2014, is entirely unsubstantiated by any contemporaneous entry in the original files. To the contrary, the Speed Post tracking report (Annexure-8 to the writ) embedded within the record establishes that the charge-memo was booked on 09.01.2015 and delivered to the petitioner only on 10.01.2015.

While the departmental resolution was passed on 29.12.2014, Form 'Ka' was actually served on the delinquent officer on 10.01.2015, which is subsequent to his superannuation on 31.12.2014.

Consequently, the proceeding cannot be treated as a continuation of a pre-retirement proceeding; rather, it constitutes a post-retirement initiation governed

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strictly by Rule 43 (b). Applying Proviso (a)(ii) to Rule 43 (b) as interpreted in Idris Ansari case (supra), the State is barred from initiating proceedings in respect of any event or misconduct that occurred more than four years prior to the date of institution.

Since the alleged irregularities and advance disbursements regarding the 36 high-mast lights relates back to the period 2008–2009, the initiation of proceedings on 10.01.2015, clearly exceeds the statutory four-year threshold. Following the principle in Idris Ansari (supra), the proceedings converted under Rule 43(b) for allegations dating back to 2008–2009 are wholly misconceived, without jurisdiction, stillborn, and legally not maintainable.

17. On a scrupulous reading of the facts on record, the alleged acts of administrative and financial irregularities pertain to the period from 12.12.2006 to 20.10.2009. The memo of charges/resolution dated 29.12.2014, was dispatched on 09.01.2015, and was served upon the petitioner only on 10.01.2015, which happens to be well after his retirement on 31.12.2014. Therefore, the proceeding initiated on 10.01.2015, relates to events that occurred more than four years prior to its institution.

18. Applying the settled legal principles to the facts of the present case, this Court finds that the initiation of the departmental proceeding against the petitioner under Rule 43(b) is hit by the statutory bar of limitation contained in the proviso thereto.

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19. Furthermore, the record discloses that the Enquiry Officer relied upon an ex-parte report dated 26.12.2015, submitted by the District Magistrate, Araria after the closure of regular inquiry hearings.

On the standard of proof required in a departmental inquiry, even one conducted ex parte, the law stands settled by the Hon'ble Supreme Court in ***Roop Singh Negi v. Punjab National Bank reported in (2009) 2 SCC 570***. Paragraph 14 and 23 establishes the following,

> *"14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence.*
>
> *23. Furthermore, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders*

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passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the criminal court on the basis of self-same evidence should not have been taken into consideration. The materials brought on record/produced and the same are required to be proved. A decision must be arrived at on some evidence which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding, but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The appellate authority, by the enquiry officer apparently, were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof."

The Apex Court held that a departmental inquiry is a quasi-judicial proceeding where the Inquiry Officer must arrive at findings based on cogent evidence, rather than conjectures or surmises. It was specifically observed that the mere production of documents or the registration of an FIR does not dispense with the necessity of proving the allegations through evidence establishing a preponderance of probabilities.

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20. In the present case, since Charge No. 6 remained unproven and the financial charges arose out of collective decisions taken by the Tender Committee, the Department could not treat the delinquent officer's absence during an ex parte proceeding as an automatic admission of guilt. In the absence of independent evidence demonstrating personal misrepresentation or deliberate negligence on the part of the delinquent officer, the findings in the inquiry report suffer from perversity, rendering the resultant order under Rule 43(b) legally unsustainable.

21. The said ex-parte report was neither supplied to the petitioner nor was he given an opportunity to cross-examine or submit his defense against it. Passing a punishment order based on such ex-parte materials is in complete violation of the principles of natural justice. Furthermore, the procedural integrity of the inquiry stands vitiated on account of the unauthorized expansion of charges from four to six vide Memo No. 6233 dated 28.04.2015, issued by the Deputy Secretary, General Administration Department, without obtaining a formal Executive Resolution from the competent Disciplinary Authority under **Rule 17(3) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005**. As laid down under this provision,

> *"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;*

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(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."

It has been specifically provided that *"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..."*.

A plain reading of this provision makes it clear that the statute vests the power to draw up charges exclusively in the Disciplinary Authority, any creation or modification of charges requires an official administrative/executive decision (a formal Resolution or Sanction), directly approved by that authority.

22. An Inquiry Officer is a quasi-judicial authority bound strictly by the terms of reference framed by the Disciplinary Authority, and has no statutory mandate to evaluate supplementary charges that lack explicit executive sanction. As held in ***Managing Director, ECIL v. B. Karunakar reported in (1993) 4 SCC 727***, an inquiry report evaluating unauthorized charges framed in violation of statutory rules constitutes a legal nullity. The Supreme Court in Paragraph 25 clarified that the Inquiring Authority is merely a delegate of the Disciplinary Authority

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appointed solely to inquire into specific imputations of misconduct. As laid down in this paragraph,

> *"While the right to represent against the findings in the report is part of the reasonable opportunity available during the first stage of the inquiry viz., before the disciplinary authority takes into consideration the findings in the report, the right to show cause against the penalty proposed belongs to the second stage when the disciplinary authority has considered the findings in the report and has come to the conclusion with regard to the guilt of the employee and proposes to award penalty on the basis of its conclusions. The first right is the right to prove innocence. The second right is to plead for either no penalty or a lesser penalty although the conclusion regarding the guilt is accepted. It is the second right exercisable at the second stage which was taken away by the Forty-second Amendment."*

23. Moreover, under Rule 17(3) read with Rule 17(4), delivering a chargesheet to a government servant is a statutory prerequisite.

If supplementary charges are added without the Disciplinary Authority issuing a formal resolution under Rule 17(3), those added charges are void ab initio. As established in paragraph 26 of the Managing Director, ECIL v. B. Karunakar (supra), evaluating unapproved charges renders the resulting inquiry report a legal nullity,

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"The reason why the right to receive the report of the enquiry officer is considered an essential part of the reasonable opportunity at the first stage and also a principle of natural justice is that the findings recorded by the enquiry officer form an important material before the disciplinary authority which along with the evidence is taken into consideration by it to come to its conclusions. It is difficult to say in advance, to what extent the said findings including the punishment, if any, recommended in the report would influence the disciplinary authority while drawing its conclusions. The findings further might have been recorded without considering the relevant evidence on record, or by misconstruing it or unsupported by it. If such a finding is to be one of the documents to be considered by the disciplinary authority, the principles of natural justice require that the employee should have a fair opportunity to meet, explain and controvert it before he is condemned. It is negation of the tenets of justice and a denial of fair opportunity to the employee to consider the findings recorded by a third party like the enquiry officer without giving the employee an opportunity to reply to it….Both the dictates of the reasonable opportunity as well as the principles of natural justice, therefore, require that before the disciplinary authority comes to its own conclusions, the delinquent employee should have an opportunity to reply to the enquiry officer's findings. The

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disciplinary authority is then required to consider the evidence, the report of the enquiry officer and the representation of the employee against it."

24. The expansion of charges from four to six vide Memo No. 6233 dated 28.04.2015, issued merely by way of an administrative forwarding note without a formal Executive Resolution passed by the Disciplinary Authority renders the supplementary charges void ab initio for lack of statutory jurisdiction. By adjudicating unapproved supplementary charges, the Enquiry Commissioner acted without authority, rendering the resulting Enquiry Report dated 29.01.2016, a legal nullity in respect of those added counts. This fundamental defect is further underlined by the Enquiry Commissioner's explicit finding that Charge No. 6 remained unproven ("प्रमाणित नहीं है").

25. This failure is further compounded by the complete disregard of the principle of *audi alteram partem* that even though the petitioner submitted detailed written defense statements dated 22.11.2015 and 07.12.2015, along with 18 documentary annexures demonstrating the execution of schemes worth ₹1,39,72,000/-, the disciplinary authority mechanically ignored these factual submissions violating Rule 18(4) of the Bihar CCA Rules, 2005, and the rule against unreasoned "rubber-stamp" adjudications as propounded in ***Oryx Fisheries Pvt. Ltd. v. Union of India, reported in (2010) 13 SCC 427.***

26. This Court finds that the operational mandate of **Rule 18 of the Bihar CCA Rules, 2005** strictly governs the disciplinary authority's decision-

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making process. Under Rule 18, the disciplinary authority is legally prohibited from treating a show-cause reply as a mere empty formality. Rule 18, Sub-rule (4) specifically establishes,

> *"The disciplinary authority shall consider the representation or submission, if any, submitted by the Government Servant before proceeding further in the manner specified in sub-rules (5) and (6)."*

Rule 18(4) makes it a statutory prerequisite for the disciplinary authority to actively consider the representation/written defense submitted by the employee. The word "consider" in Rule 18(4) cannot be satisfied by merely acknowledging receipt or issuing a template/summary order. It requires an active application of mind to every specific defense point raised in a multi-page representation. The failure to consider the documentary annexures submitted by the delinquent officer directly breaches the statutory procedure prescribed under the Rule 18(4). Passing a mechanical penalty order in total disregard of the defences raised in the documentary annexures amounts to a flagrant violation of Rule 18(4), thereby vitiating the entire disciplinary action.

27. In ***Oryx Fisheries Private Limited v. Union of India and Others, reported (2010) 13 SCC 427***, the Supreme Court laid down key principles regarding natural justice, the requirement of an open mind during show-cause proceedings, and the invalidity of non-speaking/mechanical administrative orders. The Supreme Court held that the primary purpose of issuing a show cause notice or seeking a representation is to accord a reasonable and meaningful opportunity

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of defense. The Disciplinary/Issuing Authority must keep its mind open and cannot proceed with a closed mind or prejudged conclusion. This principle has been clarified in Paragraph 24, 27 and 31 of this case,

> *"24….It is well settled that a quasi-judicial authority, while acting in exercise of its statutory power must act fairly and must act with an open mind while initiating a show-cause proceeding. A show-cause proceeding is meant to give the person proceeded against a reasonable opportunity of making his objection against the proposed charges indicated in the notice…..*
>
> *…..27. It is no doubt true that at the stage of show cause, the person proceeded against must be told the charges against him so that he can take his defence and prove his innocence. It is obvious that at that stage the authority issuing the charge-sheet cannot, instead of telling him the charges, confront him with definite conclusions of his alleged guilt. If that is done, as has been done in the instant case, the entire proceeding initiated by the show-cause notice gets vitiated by unfairness and bias and the subsequent proceedings become an idle ceremony.*
>
> *….31. It is of course true that the show-cause notice cannot be read hyper technically and it is well settled that it is to be read reasonably. But one thing is clear that while reading a show-cause notice the person who is subject to it must get an impression that he*

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will get an effective opportunity to rebut the allegations contained in the show-cause notice and prove his innocence. If on a reasonable reading of a show-cause notice a person of ordinary prudence gets the feeling that his reply to the show-cause notice will be an empty ceremony and he will merely knock his head against the impenetrable wall of prejudged opinion, such a show-cause notice does not commence a fair procedure especially when it is issued in a quasi-judicial proceeding under a statutory regulation which promises to give the person proceeded against a reasonable opportunity of defence."

It is clear that when a Disciplinary Authority issues a show cause notice or considers a delinquent officer's defense, it cannot treat the procedure as a mere formality. The authority must demonstrate that it approached the officer's written submission with an open mind rather than mechanically endorsing adverse findings.

28. Paragraph 40 and 41 of the abovementioned case stipulates that where an administrative or quasi-judicial order inflicts severe civil or financial consequences on an individual, strict adherence to the principles of natural justice (audi alteram partem) is mandatory. A failure to consider the delinquent's defense materials vitiates the entire proceeding. As provided under paragraph 40 and 41,

"40…(b) A quasi-judicial authority must record reasons in support of its conclusions…

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....(e)Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

....(l)Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision-making process.

...(o)In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of 'due process'...

....41. In the instant case the appellate order contains reasons. However, absence of reasons in the original order cannot be compensated by disclosure of reason in the appellate order."

29. Withholding/deducting 75% of pension under Rule 43(b) carries grave financial consequences. Applying ***Oryx Fisheries***, passing such a drastic order without considering the exculpatory documentary evidence submitted by the petitioner renders the punishment order legally unsustainable and void.

The Disciplinary Authority's order simply rubber-stamped the Enquiry Commissioner's report. Adopting adverse conclusions without analysing the petitioner's specific defense or addressing why Charge No. 6 was declared "प्रमाणित नहीं है" by the Enquiry Officer constitutes rubber-stamp adjudication.

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30. Depriving a retired government servant of 75% of his earned pension carries severe civil consequences. Passing an unreasoned order in breach of Rule 18(4) of the Bihar CCA Rules violates Article 14 and Article 311(2) of the Constitution. The State is bound by Article 14 of the Constitution of India to act non-arbitrarily and maintain parity among employees.

31. The impugned proceedings and the final punishment order deducting 75% of the petitioner's pension violates and contravenes the mandatory test of non-arbitrariness under Article 14 of the Constitution of India. The arbitrary addition of charges without approval under Rule 17(3), the reliance on the unsupplied ex-parte District Magistrate’s report dated 26.12.2015 in breach of natural justice, and the total non-consideration of the petitioner's written defense accompanied by 18 documentary annexures in violation of Rule 18(4), collectively demonstrates a procedural trajectory tainted by manifest arbitrariness.

32. Furthermore, invoking Rule 43(b) of the Bihar Pension Rules, 1950, to inflict a severe pecuniary penalty upon a retired officer without establishing a valid finding of guilt through a legally sound inquiry constitutes a clear statutory violation of Rule 43(b) itself. Applying the principles laid down in ***Oryx Fisheries case (supra) and ECIL case (supra)***, an order passed in total disregard of statutory procedure and fundamental fairness cannot be sustained under Article 14.

33. Furthermore, invoking Rule 43(b) of the Bihar Pension Rules, 1950, to initiate departmental action for events that transpired beyond the statutory limit of

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four years directly violates Proviso (a)(ii) to Rule 43(b). The four-year limitation period is a mandatory statutory pre-condition and surpassing the same, prima facie strips off the jurisdiction exercised by the Disciplinary Authority, rendering the entire disciplinary proceeding and the order deducting 75% pension as being legally unsustainable and void ab initio.

34. In the facts of the present case as stated hereinabove, this Court is of the view that the departmental proceeding, the inquiry report, and the consequential punishment order cannot be sustained in the eye of the law.

35. In view of the aforesaid detailed findings, statutory violations and the factual clarity emerging from the original records, the writ petition is allowed. The impugned punishment order deducting 75% of the petitioner's pension, together with the underlying departmental inquiry proceedings originating from Memo No. 6233 dated 28.04.2015 and the ex-parte Enquiry Report dated 29.01.2016, are hereby **quashed and set aside**.

36. This Court on the prayer of the State, explicitly declines to remand the matter back to the Disciplinary Authority for a fresh or de novo inquiry. Placing reliance on the binding principles settled by the Full Bench of this Court in ***Manisha Kumari & Ors. v. State of Bihar & Ors. (LPA No. 1324 of 2019, decided on 16.09.2026)*** and the Hon'ble Supreme Court in ***State of U.P. v. Ram Prakash Singh, 2025 (2) PLJR (SC) 331*** this Court holds that:

(a) An order of remand is meant solely to cure procedural vulnerabilities to avoid prejudice to the delinquent officer, and cannot be granted to cover

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up negligence, laxity, or fundamental statutory lacunae committed by the Disciplinary Authority during the inquiry.

(b) The initiation of supplementary charges without a formal resolution is void ab initio for lack of statutory jurisdiction under Rule 17(3) of the Bihar CCA Rules.

(c) The alleged events pertain to the period 2007–2010, rendering any post-retirement departmental action barred by the mandatory four-year limitation period under Proviso (a)(ii) to Rule 43(b) of the Bihar Pension Rules, 1950.

(d) Subjecting a retired officer to a fresh round of inquiry after more than a decade due to departmental default would be highly unfair, unjust, and would improperly reward administrative negligence with an impermissible premium.

(e) Accordingly, a quietus must be given to the lis, and no remand shall be issued.

37. Taking serious judicial notice of the inordinate, unexcused delay in prosecuting and conducting the proceedings, the unauthorized expansion of charges under Rule 17(3), and the reliance on unsupplied ex-parte verification reports in violation of natural justice, the concerned Department of the State is directed to initiate an internal administrative inquiry in order to:

i. Ascertain the specific administrative officials responsible for the prolonged delay and procedural lapses;

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ii. Fix individual accountability for bypassing statutory mandates; and

iii. Take appropriate action against the erring official, if it is found that there is deliberate latches on the part of the erring officials in conducting the departmental proceedings.

38. The respondents are directed to restore the full pension of the petitioner forthwith and release all withheld pensionary benefits, including full arrears, withheld gratuity, and incidental post-retiral dues, along with statutory interest at the rate of 6% per annum, within a period of eight (8) weeks from the date of receipt/production of a copy of this judgment.

39. The writ petition is **allowed** to the aforesaid extent. The original record received from State Government is hereby returned to the learned counsel for the State.

(Kumar Manish, J)

sanjeev/-

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CAV DATE	20.08.2026
Uploading Date	09.10.2026
Transmission Date	

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