

1. Akhileshwar Mishra versus the State of Bihar & Ors.(CWJC 10314 of 2011)

Bench: P.B. Bajanthri, J., decided on 01-09-2022

Topic: Major Charge Memo, Minor Penalty

Provision: Rule 17, Bihar Government Servants (Classification, Control & Appeal) Rules, 2005

Issue: Whether proceedings initiated under Rule 17 (major penalty) can be concluded by imposing a minor penalty without following the prescribed procedure.

Held: Once a charge memo is issued under Rule 17, the entire procedure for major penalty is mandatory, irrespective of the nature of the penalty ultimately imposed. The Court deprecated short-circuiting of procedure by imposing a minor penalty in a proceeding initiated for major penalty. Punishment orders were set aside; suspension period was directed to be treated as duty; consequential monetary benefits were directed with 8% interest on delay.

2. Balmiki Sharma Versus The State of Bihar & Ors. (CWJC No. 3837 of 2020)

Bench: Harish Kumar, J., decided on 18-06-2025

Topic: Proof of Charges/Mandatory Evidence under Rule 17

Provision: Rule 17(14), Bihar Government Servants (Classification, Control & Appeal) Rules, 2005

Issue: Whether disciplinary punishment can be sustained when charges are held proved without examination of witnesses and without proving documents in the manner prescribed under Rule 17(14).

Held: The Court reiterated that Rule 17(14) mandatorily requires the disciplinary authority to lead oral and documentary evidence to prove charges in a major penalty proceeding. Documents do not prove themselves and must be proved through witnesses, affording the delinquent an opportunity of cross-examination. Recording findings of guilt in absence of any evidence amounts to perversity and renders the

inquiry void. The punishment order was quashed as being based on no evidence.

3. Md. Irshad Ansari Versus The State of Bihar & Ors. (CWJC No. 16178 of 2021)

Bench: Purnendu Singh, J., decided on 15-04-2025

Topic: No Evidence / Mandatory Compliance with Rule 17(14)

Provision: Rule 17(3), Rule 17(5), Rule 17(14) & Rule 24(2), Bihar Government Servants (Classification, Control & Appeal) Rules, 2005; Article 311(2), Constitution of India

Issue: Whether a major penalty of dismissal is sustainable when (i) the charge memo is not accompanied by list of documents and witnesses, (ii) no oral or documentary evidence is led during enquiry as mandated under Rule 17(14), (iii) the Presenting Officer fails to examine any witness, and (iv) the disciplinary authority records findings of grave financial embezzlement without evidentiary proof.

Held: The Court held that Rule 17(14) mandatorily requires the Disciplinary Authority to prove charges through examination of oral and documentary evidence, and documents do not prove themselves. In the present case, despite serious allegations of misappropriation of public funds exceeding ₹10 crore, not a single witness was examined, no document was proved, and even the list of approved schools allegedly altered by the petitioner was never produced. The enquiry was reduced to an empty formality, rendering the findings perverse and based on no evidence. Relying on *Roop Singh Negi v. PNB*, *Satyendra Singh v. State of U.P.*, *Saroj Kumar Sinha*, *Nirmala J. Jhala* and *Union of India v. B.V. Gopinath*, the Court held that the very foundation of the disciplinary action was illegal, and applying the doctrine *sublatofundamentocadit opus*, quashed the dismissal order dated 17.09.2020. The matter was remitted to the Disciplinary Authority to proceed afresh in accordance with law, particularly in view of the unexplained pendency of the statutory review application filed under Rule 24(2).

4. Bharat Purbey Versus State of Bihar (CWJC No. 10109 of 2021)

Bench: Harish Kumar, J., decided on 21-12-2022

Topic: Corruption Charge / No Evidence

Provision: Rule 17(14), Bihar Government Servants (Classification, Control & Appeal) Rules, 2005

Issue: Whether punishment of 100% stoppage of pension can be sustained when the inquiry relies solely on FIR and charge-sheet without examination of witnesses.

Held: FIR and charge-sheet are not substantive evidence in departmental proceedings and must be proved through witnesses. Mere tendering of documents does not amount to proof. In corruption-related charges, suspicion or probability cannot replace proof. Non-examination of any witness rendered the finding one of no evidence. The punishment of 100% stoppage of pension was quashed.

5. Dr. Arun Kumar Tiwary Versus State of Bihar & Ors. (CWJC No. 2102 of 2018)

Bench: P.B. Bajanthri, J., decided on 17-05-2022

Topic: Non-service of Charge Memo/Non-supply of Inquiry Report/Appellate Failure

Provisions: Rules 17, 18 & 27, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal is sustainable when service of charge memo is not proved, inquiry report is not supplied and the appellate authority fails to pass a reasoned order.

Held: The State failed to establish service of the charge memo and compliance with Rule 17. Non-supply of the inquiry report violated Rule 18 and principles of natural justice. The appellate authority failed to discharge its statutory duty under Rule 27. Owing to gross procedural lapses and inordinate delay, the dismissal was set aside with costs.

6. Ashok Paswan Versus State of Bihar (CWJC No. 4854 of 2017)

Bench: Chakradhari Sharan Singh, J., decided on 27-09-2021



Topic: Defective Charge Memo

Provision: Rule 17(4), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal for bribery can be sustained in absence of oral evidence and a valid charge memo.

Held: A charge memo merely referring to arrest or registration of an FIR does not constitute a charge of misconduct. Failure to supply a list of witnesses violates Rule 17(4). Demand and acceptance of bribe must be proved through oral evidence. Reliance solely on vigilance documents amounted to no evidence. The dismissal order was set aside.

7. Arun Kumar Versus State of Bihar (CWJC No. 2013 of 2015)

Bench: Madhuresh Prasad, J., decided on 18-01-2019

Topic: Pre-Trap Memorandum/No Evidence

Provision: Rules 17(3) & 17(14), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal based solely on a pre-trap memorandum, without examination of any witness, is legally sustainable.

Held: Non-supply of the list of documents and witnesses violated Rule 17(3). The inquiry further violated Rule 17(14) as no oral or documentary evidence was adduced. Reliance solely on a pre-trap memorandum without corroboration rendered the finding perverse and based on no evidence. The dismissal order was quashed.

8. Md. Muqaddar Khan Versus State of Bihar & Ors. (CWJC No. 7803 of 2020)

Bench: Chakradhari Sharan Singh, J., decided on 06-04-2021

Topic: Dispensing with Inquiry – Article 311(2)(b)

Provision: Article 311(2)(b), Constitution of India; Rule 20, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal without holding a departmental inquiry is valid in absence of recorded reasons justifying such dispensation.

Held: Dispensing with inquiry is an exceptional power and can be exercised only when reasons are recorded showing that holding an inquiry is not

reasonably practicable. Absence of such recorded satisfaction violates Article 311(2)(b). The dismissal order was set aside.

9. Kumar Raja Versus State of Bihar (CWJC No. 19792 of 2015)

Bench: Sanjeev Prakash Sharma, J., decided on 23-11-2022

Topic: Inquiry Officer – Bias / Malice in Law

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether disciplinary proceedings are vitiated when the Inquiry Officer assumes the role of prosecutor and records findings without evidence.

Held: The Inquiry Officer, being a quasi-judicial authority, cannot assume the role of prosecutor. Recording findings on unproved material and on charges not framed demonstrates bias and malice in law. In absence of any supporting evidence, the finding of guilt was unsustainable. The dismissal order was set aside.

10. Dinesh Prasad Versus The State of Bihar & Ors. (CWJC No. 10088 of 2015)

Bench: Mohit Kumar Shah, J., decided on 24-12-2021

Topic: Ex-Parte Inquiry – Delinquent in Judicial Custody

Provision: Rules 17(5)(c) & 18(3), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether an ex-parte inquiry conducted while the delinquent was in judicial custody is valid.

Held: Conducting an ex-parte inquiry against a delinquent who was in judicial custody violates principles of natural justice. On reopening of inquiry, opportunity of cross-examination must be afforded. Non-appointment of Presenting Officer and denial of statutory time for second show-cause further vitiated the proceedings. The dismissal order was set aside.

11. State of Bihar Versus Sagar Kumar Roy (LPA No. 1203 of 2019)

Bench: P.B. Bajanthri & Rajiv Roy, JJ., decided on 29-08-2022

Topic: Relief after Quashing on Technical Grounds



Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether reinstatement with back wages is automatic when dismissal for serious misconduct is set aside on technical grounds.

Held: Where punishment is set aside on technical or procedural grounds without adjudication on merits, the proper course is remand for fresh inquiry, particularly in cases involving serious charges like misappropriation. Reinstatement and back wages are not automatic. Applying *ECIL v. B. Karunakar*, the Court held that back wages must depend on the outcome of the fresh inquiry. The order of the writ court was modified accordingly.

12. State of Bihar Versus Ravindra Thakur (LPA No. 71 of 2021)

Bench: P.B. Bajanthri & Rajiv Roy, JJ., decided on 25-08-2022

Topic: Second Show-Cause – Requirement of Reasoned Order

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment is sustainable when the reply to second show-cause notice is not considered by the Disciplinary Authority.

Held: The Disciplinary Authority performs a quasi-judicial function and must pass a reasoned and speaking order. Mere issuance of a second show-cause notice without consideration of the explanation defeats its purpose. Non-consideration of defence reflects non-application of mind and vitiates the punishment order.

13. Kumar Raja Versus State of Bihar (CWJC No. 19792 of 2015)

Bench: Sanjeev Prakash Sharma, J., decided on 23-11-2022

Topic: Inquiry Officer Acting as Prosecutor – Malice in Law

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether disciplinary proceedings are vitiated when the Inquiry Officer assumes the role of prosecutor and records findings on unframed charges.

Held: The Inquiry Officer must act impartially and cannot assume the role of Presenting Officer. Recording findings on a charge not framed and without issuing a disagreement note amounts to malice in law. Findings based on such procedure are unsustainable. The dismissal order was set aside.

14. Arun Kumar Versus State of Bihar (CWJC No. 2013 of 2015)

Bench: Madhuresh Prasad, J., decided on 18-01-2019

Topic: Pre-Trap Memorandum / No Evidence

Provision: Rules 17(3) & 17(14), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal based solely on a pre-trap memorandum, without examination of any witness, is legally sustainable.

Held: Non-supply of the list of documents and witnesses violated Rule 17(3). No oral evidence was adduced to prove the documents as required under Rule 17(14). Reliance solely on a pre-trap memorandum rendered the finding perverse and based on no evidence. The dismissal order was quashed.

15. Praduman Kumar Prasad Versus The State of Bihar & Ors. (CWJC No. 12121 of 2023)

Bench: Arvind Singh Chandel, J., decided on 25-02-2025

Topic: De Novo Inquiry / Scope of Rule 18

Provision: Rule 18(1), Bihar Government Servants (Classification, Control & Appeal) Rules, 2005

Issue: Whether the Disciplinary Authority can annul an existing disciplinary proceeding and direct a fresh inquiry with a new charge memo after prolonged proceedings and earlier remands.

Held: The Court held that Rule 18(1) permits only a further inquiry to cure specific defects in the existing inquiry and does not empower the Disciplinary Authority to order a de novo inquiry or issue a fresh charge memo to fill lacunae. Relying on *K.R. Deb v. Collector of Central Excise*, the Court held that repeated inquiries over the same charges for more than a decade amount to harassment. The order dated 28.06.2023 directing a fresh inquiry was set aside, with liberty to conclude the matter on existing materials or, if necessary, by a limited further inquiry within 90 days.

16. Dr. Arun Kumar Tiwary Versus State of Bihar & Ors. (CWJC No. 2102 of 2018)

Bench: P.B. Bajanthri, J., decided on 17-05-2022

Topic: Non-Service of Charge Memo / Appellate Failure

Provision: Rules 17, 18 & 27, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal is sustainable when service of charge memo, supply of inquiry report and proper appellate consideration are not established.

Held: The State failed to establish service of the charge memo and compliance with Rule 17, thereby denying opportunity of defence. Non-supply of the inquiry report violated Rule 18. The Appellate Authority failed to discharge its statutory duty under Rule 27 by passing a non-speaking order. Considering the inordinate delay of more than a decade, the punishment was set aside with costs imposed on the State.

17. State of Bihar Versus Sagar Kumar Roy (LPA No. 1203 of 2019)

Bench: P.B. Bajanthri & Rajiv Roy, JJ., decided on 29-08-2022

Topic: Relief after Quashing on Technical Grounds

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether reinstatement with back wages is automatic when dismissal for serious misconduct is set aside on technical grounds.

Held: Where punishment is set aside on technical or procedural grounds without adjudication on merits, the proper course is remand for fresh inquiry, especially in cases involving serious charges like misappropriation. Reinstatement and back wages are not automatic. Applying *ECIL v. B. Karunakar*, the Court held that back wages must depend on the outcome of the fresh inquiry. The order of the writ court was modified accordingly.

18. Raj Kishore Singh Versus State of Bihar (CWJC No. 13402 of 2019)

Bench: Harish Kumar, J., decided on 03-01-2025

Topic: Disciplinary Inquiry - Non-Supply of Inquiry Report / Rule 17 Violations

Provision: Rules 17(4) & 17(14), Bihar Government Servants (CCA) Rules, 2005



Issue: Whether punishment is sustainable when the inquiry report is not supplied and no witnesses are examined to prove documents.

Held: Non-supply of the inquiry report prior to imposition of punishment violates principles of natural justice as laid down in *ECIL v. B. Karunakar*. The charge memo lacked a list of witnesses in violation of Rule 17(4), and no witness was examined to prove the documents as required under Rule 17(14). These procedural lapses vitiated the entire inquiry. The punishment order was set aside.

18. Mukesh Kumar Singh Versus State of Bihar (CWJC No. 3849 of 2020)

Bench: Harish Kumar, J., decided on 29-11-2024

Topic: Intoxication Charge – Scientific Proof / Proportionality

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal based solely on smell of alcohol is legally sustainable.

Held: Mere smell of alcohol is not conclusive proof of intoxication. In absence of scientific evidence such as blood or urine test or breath analyser report, the charge cannot be held proved. Even otherwise, the punishment of dismissal was grossly disproportionate. The dismissal order was set aside.

19. Bajrangi Kumar Singh Versus Sheo Lal Sao (First Appeal No. 80 of 2022)

Bench: Shailendra Singh, J., decided on 03-12-2024

Topic: Delegation of Disciplinary Power / Proof of Intoxication

Provision: Rule 18(3), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal is sustainable when the second show-cause notice is issued by an authority other than the Disciplinary Authority and intoxication is not proved by scientific evidence.

Held: Issuance of the second show-cause notice by an authority subordinate to the Disciplinary Authority is impermissible under Rule 18(3). Medical opinion based merely on smell of alcohol is insufficient to

prove intoxication. The dismissal was held procedurally illegal and disproportionate and was set aside.

20. Sweta Mishra Versus State of Bihar (CWJC No. 17506 of 2024)

Bench: Purnendu Singh, J., decided on 23-01-2025

Topic: Quasi-Judicial Functions

Provision: Rule 17(2), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether disciplinary proceedings can be initiated against an officer for quasi-judicial orders passed in discharge of official duties.

Held: Officers exercising quasi-judicial powers cannot be subjected to disciplinary proceedings merely because their orders are alleged to be erroneous. Unless mala fides or extraneous considerations are prima facie established, disciplinary action would amount to sitting in appeal over quasi-judicial decisions. The charge memo was quashed.

21. Satyendra Kumar Gupta Versus State of Bihar (CWJC No. 13380 of 2022)

Bench: Harish Kumar, J., decided on 18-03-2025

Topic: Preliminary Inquiry – No Evidentiary Value / Competence

Provision: Rules 16 & 17, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal based on repeated preliminary enquiries and hearsay material is sustainable.

Held: A preliminary inquiry has no evidentiary value and is only meant to decide whether disciplinary proceedings should be initiated. Repeated preliminary enquiries to fish for evidence were deprecated. No witness was examined to prove demand or acceptance of bribe. The Superintendent of Police lacked competence to act as Disciplinary Authority. The dismissal order was quashed and reinstatement with consequential benefits was directed.

22. Md. Mushtaque Versus State of Bihar (CWJC No. 3635 of 2020)

Bench: Harish Kumar, J., decided on 15-01-2025

Topic: Disciplinary Inquiry – FIR/Charge-Sheet as Sole Basis / No Evidence

Provision: Rule 17, Bihar Government Servants (Classification, Control & Appeal) Rules, 2005

Issue: Whether dismissal can be sustained when the inquiry relies solely on FIR and police charge-sheet without examination of any witness.

Held: FIR and police charge-sheet are not substantive evidence in departmental proceedings. Documents do not prove themselves and must be proved through witnesses. Absence of any oral evidence rendered the findings perverse and based on no evidence. As the petitioner had superannuated, the dismissal and appellate orders were quashed and consequential benefits were directed.

23. Mukesh Kumar Versus State of Bihar (CWJC No. 2114 of 2020)

Bench: Harish Kumar, J., decided on 18-02-2025

Topic: Vigilance Trap Case – Proof of Demand and Acceptance

Provision: Rule 17, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal in a vigilance trap case can be sustained without examination of complainant or shadow witnesses.

Held: In trap cases, proof of demand and acceptance is sine qua non. Trap memo and FIR by themselves are insufficient. Non-examination of complainant and shadow witnesses violated Rule 17 and principles of natural justice. The dismissal and appellate orders were quashed and reinstatement with consequential benefits was directed.

24. Manoj Kumar Ram Versus State of Bihar (CWJC No. 12321 of 2021)

Bench: Harish Kumar, J., decided on 20-03-2025

Topic: Inquiry Officer Acting as Prosecutor

Provision: Rule 17(5)(c), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether disciplinary proceedings are vitiated when no Presenting Officer is appointed and the Inquiry Officer conducts prosecution.

Held: The Inquiry Officer must remain an impartial adjudicator. Acting as prosecutor violates the principle of nemo iudex in causa sua and Rule 17(5)(c). Such violation warrants interference. The dismissal and appellate

orders were set aside; reinstatement with continuity of service and partial back wages was directed.

25. Braj Kishor Sadanand Versus State of Bihar (CWJC No. 16583 of 2022)

Bench: Harish Kumar, J., decided on 07-01-2025

Topic: Preliminary Inquiry Report – No Evidentiary Value

Provision: Rule 17, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment can be based on a preliminary inquiry report not proved in the regular departmental inquiry.

Held: A preliminary inquiry report collected behind the back of the delinquent has no evidentiary value unless proved in the regular inquiry by examining its authors. Non-examination of complainant and committee members denied opportunity of cross-examination. Findings based on such material amounted to no evidence. The dismissal was set aside with consequential benefits.

26. Ravi Kumar Versus The State of Bihar (CWJC No. 443 of 2022)

Bench: Harish Kumar, J., decided on 07-01-2025

Topic: Exoneration by Enquiry Officer / Non-Speaking Orders

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment can be imposed when the Enquiry Officer exonerates the delinquent and the Disciplinary Authority records no reasons for disagreement.

Held: The Court held that reasons are the heart of any quasi-judicial order. Where the Enquiry Officer exonerates the delinquent, the Disciplinary Authority must assign cogent reasons for disagreement. Cryptic rejection of the defence demonstrated non-application of mind. The punishment and appellate orders were set aside with directions for reinstatement and consequential benefits.

27. State of Jharkhand & Ors. Versus Rukma Kesh Mishra (Civil Appeal arising out of SLP (C) No. 19223 of 2024)

Bench: Dipankar Datta & Manmohan, JJ., decided on 28-03-2025

Topic: Charge-Sheet Approval – Substance over Form

Provision: Rule 55, Civil Services Rules, 1930

Issue: Whether charge-sheet was invalid for want of approval by the competent Disciplinary Authority.

Held: The entire proposal, including the draft charge-sheet, was placed before and approved by the competent authority prior to issuance. Once the draft charge-sheet is approved, subsequent issuance by a subordinate does not vitiate the proceedings. The High Court judgment was set aside and the dismissal was upheld.

28. Addl. Chief Secretary Versus Md. Muttafique Ahmad (LPA No. 900 of 2024)

Bench: Ashutosh Kumar & Partha Sarthy, JJ., decided on 30-01-2025

Topic: Disciplinary Proceeding – Misconduct vs. Error of Judgment / Scope of Judicial Review

Provision: Bihar Government Servants (Classification, Control & Appeal) Rules, 2005

Issue: Whether supervisory lapses or errors of judgment can constitute misconduct warranting disciplinary punishment.

Held: Misconduct postulates an element of ill motive. Mere negligence, error of judgment, or bona fide decision-making does not amount to misconduct (*Union of India v. J. Ahmed; Inspector Prem Chand*). Applying the limited scope of judicial review in disciplinary matters (*P. Gunasekaran*), the Division Bench upheld the Single Judge's finding that the charges were flimsy and did not warrant punishment. The LPA was dismissed.

29. State of Bihar Versus Himanshu Shekhar (LPA No. 555 of 2024)

Bench: K. Vinod Chandran, CJ & Partha Sarthy, J., decided on 09-01-2025

Topic: Withholding of Promotion – Minor Penalty

Provision: Rule 14(ii) and Explanation (ii), Bihar Government Servants (CCA) Rules, 2005



Issue: Whether withholding of promotion constitutes a penalty under the CCA Rules.

Held: Rule 14(ii) expressly classifies withholding of promotion as a minor penalty. Explanation (ii) cannot override the substantive provision and applies only to administrative situations such as sealed-cover procedure. Even if the penalty period overlaps with the non-due period of promotion, it remains a valid penalty. The LPA was allowed and the Single Judge's order was set aside.

30. State of Uttar Pradesh through Principal Secretary, Department of Panchayati Raj, Lucknow Versus Ram Prakash Singh (Civil Appeal No. 14724 of 2024)

Bench: Dipankar Datta & Prashant Kumar Mishra, JJ., decided on 23-04-2025

Topic: Repeated Procedural Violations / Refusal of Third Remand

Provision: Rule 7(vii), U.P. Government Servants (Discipline and Appeal) Rules, 1999

Issue: Whether a third opportunity for conducting a fresh inquiry should be granted after repeated failures to follow mandatory procedure.

Held: Fixing a definite date, time, and place for recording evidence is mandatory. Repeated procedural lapses, long passage of time, superannuation of the employee, and need for finality justified refusal of a third remand. The appeal was dismissed and the respondent was held entitled to full retiral benefits.

31. Maharana Pratap Singh Versus State of Bihar (Civil Appeal No. 5497 of 2025)

Bench: Dipankar Datta & Prashant Kumar Mishra, JJ., decided on 23-04-2025

Topic: Vague Charges / No Evidence / Relief by Compensation

Provision: Service jurisprudence principles

Issue: Whether dismissal can be sustained when the charge-sheet is vague and findings are based solely on unproved documents.

Held: Vague charges vitiate disciplinary proceedings at inception. Documents do not prove themselves and must be proved through witnesses (**Roop Singh Negi relied upon**). Non-examination of the complainant rendered the finding one of no evidence. As reinstatement was impracticable due to age, the dismissal was set aside and lump-sum compensation of ₹30 lakhs was awarded.

32. State of Bihar Versus Md. Shamim Akhtar (LPA No. 1653 of 2016)

Bench: P.B. Bajanthri & Arun Kumar Jha, JJ., decided on 19-01-2023

Topic: Disciplinary Authority – Power after Inquiry Report

Provision: Rule 18, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether the Disciplinary Authority can amend charges and order a fresh inquiry after receipt of the inquiry report.

Held: After receipt of the inquiry report, the Disciplinary Authority may accept the findings, disagree with reasons, or remit the matter for further inquiry to cure defects. It cannot wipe out the entire inquiry or amend charges merely because findings are unsatisfactory. Ordering a fresh inquiry was held impermissible. The LPA was dismissed.

33. Kanailal Bera Versus Union of India (Civil Appeal No. 4493 of 2007)

Bench: S.B. Sinha & H.S. Bedi, JJ., decided on 24-09-2007

Topic: Second Inquiry on Same Charges

Provision: Rule 27, CRPF Rules

Issue: Whether a second inquiry can be ordered after exoneration in the first inquiry.

Held: Once an inquiry culminates in favour of the delinquent, a second inquiry on the same charges cannot be ordered without recording reasons for disagreement. Ordering a second inquiry to secure a different outcome is impermissible. The dismissal was set aside and reinstatement with continuity of service was directed.

34. Ashok Kumar Sharma Versus State of Bihar (CWJC No. 6670 of 2018)

Bench: Dr. Anshuman, J., decided on 06-03-2024



Topic: Disciplinary Proceeding - Simultaneous Criminal and Departmental Proceedings

Provision: Bihar Government Servants (Classification, Control & Appeal) Rules, 2005

Issue: Whether departmental proceedings should be stayed during pendency of a criminal case arising out of the same facts.

Held: Departmental proceedings and criminal proceedings operate in distinct fields and can proceed simultaneously. Criminal proceedings require proof beyond reasonable doubt, whereas departmental proceedings are governed by preponderance of probabilities. There is no absolute bar to continuation of departmental proceedings merely because a criminal case is pending. The writ petition was disposed of with a direction to proceed strictly in accordance with the CCA Rules.

35. Bachneshwar Jha Versus State of Bihar (CWJC No. 5921 of 2016)

Bench: Dr. Anshuman, J., decided on 28-01-2025

Topic: Post-Retirement Disciplinary Proceeding - Retrospective Dismissal

Provision: Rule 43(b), Bihar Pension Rules, 1950

Issue: Whether dismissal order passed after superannuation with retrospective effect is legally sustainable.

Held: Though dismissal with retrospective effect is technically irregular, the disciplinary proceeding having been initiated during service, the relationship of master and servant is deemed to continue for the limited purpose of concluding the inquiry. Applying *R. Jeevaratnam v. State of Madras*, the dismissal was held to operate prospectively and was not rendered invalid. The writ petition was dismissed.

36. Mushafir Singh Versus State of Bihar (CWJC No. 12451 of 2014)

Bench: Harish Kumar, J., decided on 07-01-2025

Topic: Post-Retirement Disciplinary Proceeding - Rule 43(b) / No Evidence

Provision: Rule 43(b), Bihar Pension Rules, 1950

Issue: Whether permanent withholding of pension is sustainable when no oral evidence is led even after remand for fresh inquiry.

Held: Though proceedings could continue under Rule 43(b), the department failed to examine any witness and relied solely on FIR, complaint and trap memorandum. Documents do not prove themselves. In absence of proof of grave misconduct or pecuniary loss, permanent withholding of pension was arbitrary. The punishment was set aside and full pension with consequential benefits was directed.

37. Bhim Shankar Rai Versus State of Bihar (CWJC No. 8084 of 2021)

Bench: Harish Kumar, J., decided on 15-04-2025

Topic: Rule 43(b) Proceeding – Anonymous WhatsApp Material / No Evidence

Provision: Rule 17, Bihar Government Servants (CCA) Rules, 2005; Rule 43(b), Bihar Pension Rules, 1950

Issue: Whether 100% stoppage of pension is sustainable when inquiry is ex-parte, founded on anonymous WhatsApp material, and initiated by an incompetent authority.

Held: The charge was founded solely on an anonymous photograph received on WhatsApp, the source and authenticity of which were not proved. No witness established ownership or use of the vehicle shown. Inquiry was conducted ex-parte without supply of documents, and the charge memo was issued by an incompetent authority. Findings were based on no evidence and violated principles of natural justice. The punishment of 100% pension stoppage was set aside.

38. Renuka Devi (D/o Bindeshwari Singh) Versus State of Bihar (CWJC No. 10748 of 2021)

Bench: Purnendu Singh, J., decided on 11-04-2025

Topic: Post-Retirement Disciplinary Proceeding – Limitation / Lokayukta's Jurisdiction

Provision: Rule 43(b), Bihar Pension Rules, 1950

Issue: Whether disciplinary proceedings initiated after retirement for events beyond four years are maintainable and whether Lokayukta can direct initiation of such proceedings.

Held: Rule 43(b) bars initiation of proceedings for events beyond four years prior to retirement. Lokayukta has no authority to direct initiation of disciplinary proceedings and can only make recommendations. The proceedings were held time-barred and without jurisdiction. Punishment orders were quashed with full consequential benefits.

39. Awadh Tiwari Versus State of Bihar & Ors. (CWJC No. 12132 of 2013)

Bench: Anil Kumar Sinha, J., decided on 14-03-2023

Topic: Disciplinary Proceeding – Fresh Inquiry after Punishment Set Aside

Provision: Rule 9(5), Bihar Government Servants (CCA) Rules, 2005; Rule 43(b), Bihar Pension Rules, 1950

Issue: Whether a fresh disciplinary proceeding can be initiated after earlier punishment is quashed on technical grounds.

Held: Where punishment is set aside on technical grounds and liberty is reserved, Rule 9(5) permits continuation or initiation of fresh proceedings. The fresh inquiry was held legally permissible and not barred.

40. Binod Kumar Versus State of Bihar & Ors. (CWJC No. 6554 of 2021)

Bench: P.B. Bajanthri, J., decided on 19-07-2022

Topic: Non-Supply of Inquiry Report / Non-Consideration of Defence

Provision: Rules 17 & 18, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal is vitiated when the inquiry report is not supplied and the reply to the second show-cause notice is not considered.

Held: Supply of the inquiry report is mandatory. Failure to consider the delinquent's reply renders the punishment order arbitrary and violative of natural justice. The dismissal and appellate orders were set aside.

41. Dr. Arun Kumar Tiwary Versus State of Bihar & Ors. (CWJC No. 2102 of 2018)

Bench: P.B. Bajanthri, J., decided on 17-05-2022
Topic: Disciplinary Proceeding – Non-Service of Charge Memo / Non-Supply of Inquiry Report / Appellate Failure
Provision: Rules 17, 18 & 27, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal is sustainable when the State fails to prove service of charge memo, denies opportunity of defence, and the appellate authority passes a non-speaking order.

Held: Failure to prove service of the charge memo and non-supply of the inquiry report vitiated the proceeding. The appellate authority failed to exercise its statutory duty under Rule 27. In view of gross procedural lapses and prolonged delay, the dismissal was set aside.

42. Bajrangi Kumar Singh Versus Sheo Lal Sao (First Appeal No. 80 of 2022)

Bench: Shailendra Singh, J., decided on 03-12-2024

Topic: Delegation of Disciplinary Power / Proof of Intoxication

Provision: Rule 18(3), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal is sustainable when the second show-cause notice is issued by a subordinate authority and intoxication is not proved by scientific evidence.

Held: Issuance of the second show-cause notice by an authority other than the Disciplinary Authority is impermissible. Medical opinion based merely on smell of alcohol is insufficient to prove intoxication. The dismissal was held procedurally illegal and disproportionate and was set aside.

43. Sweta Mishra Versus State of Bihar (CWJC No. 17506 of 2024)

Bench: Purnendu Singh, J., decided on 23-01-2025

Topic: Disciplinary Proceeding – Quasi-Judicial Functions

Provision: Rule 17(2), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether disciplinary proceedings can be initiated against an officer for quasi-judicial orders passed in discharge of official duties.

Held: Disciplinary proceedings cannot be used as an appellate mechanism against quasi-judicial orders unless mala fides or extraneous considerations are shown. The charge memo was quashed.

44. Satyendra Kumar Gupta Versus State of Bihar (CWJC No. 13380 of 2022)

Bench: Harish Kumar, J., decided on 18-03-2025

Topic: Preliminary Inquiry – No Evidentiary Value / Competence of Authority

Provision: Rules 16 & 17, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal based on repeated preliminary enquiries and hearsay material is legally sustainable.

Held: Preliminary inquiry has no evidentiary value and cannot substitute a regular departmental inquiry. Repeated preliminary enquiries to collect material were deprecated. The authority initiating the proceeding lacked competence. The dismissal order was quashed with consequential benefits.

45. Raj Kishore Prasad Versus State of Bihar (CWJC No. 9817 of 2016)

Bench: Chakradhari Sharan Singh, J., decided on 05-09-2019

Topic: Disciplinary Proceeding – Non-Consideration of Defence / Speaking Order

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment is sustainable when the defence raised by the delinquent is not considered and the disciplinary order is non-speaking.

Held: The Disciplinary Authority performs a quasi-judicial function and must consider the defence put forth by the delinquent. Failure to deal with the defence and passing a cryptic order reflects non-application of mind and violates principles of natural justice. The punishment order was set aside.

46. Ashok Kumar Singh Versus State of Bihar (CWJC No. 11209 of 2017)

Bench: Ajay Kumar Tripathi, J., decided on 20-02-2018

Topic: Disciplinary Proceeding – Delay in Conclusion / Prejudice

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether prolonged and unexplained delay in concluding disciplinary proceedings vitiates the punishment.

Held: Inordinate delay in conclusion of disciplinary proceedings, for which the delinquent is not responsible, causes serious prejudice and defeats the very purpose of inquiry. On facts, the delay was held unjustified. The punishment order was set aside.

47. State of Bihar Versus Sanjay Kumar (LPA No. 1432 of 2017)

Bench: Rajendra Menon, CJ & Anjana Mishra, J., decided on 09-05-2018

Topic: Disciplinary Proceeding – Scope of Interference by Writ Court

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether the writ court can reappreciate evidence in disciplinary matters.

Held: The writ court cannot act as an appellate authority in disciplinary matters. Interference is permissible only where findings are perverse, based on no evidence, or the procedure adopted violates statutory rules or principles of natural justice. The LPA was allowed, restoring the punishment.

48. Ramakant Mishra Versus State of Bihar (CWJC No. 15476 of 2015)

Bench: Ajay Kumar Tripathi, J., decided on 18-07-2017

Topic: Standard of Proof

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: What is the standard of proof applicable in departmental proceedings.

Held: In disciplinary proceedings, the standard of proof is preponderance of probabilities and not proof beyond reasonable doubt. However, even on this standard, findings must be based on legally admissible material. The punishment was interfered with as the findings were not supported by evidence.

49. Md. Giaaul Hak Versus The State of Bihar & Ors. (CWJC No. 25445 of 2019)

Bench: Dr. Anshuman, J., decided on 06-11-2023

Topic: Unauthenticated Evidence / Procedural Fairness

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether disciplinary punishment can be sustained when witness depositions relied upon in the inquiry are neither signed by the witnesses nor authenticated by the Enquiry Officer.

Held: The Court found that the alleged depositions lacked basic authentication and could not be treated as valid evidence. Reliance on such defective material violated principles of natural justice and procedural fairness. The dismissal and appellate orders were quashed, with liberty to the respondents to proceed afresh from the stage of charge memo within a stipulated time.

50. Rajeev Ranjan Versus State of Bihar (CWJC No. 17603 of 2018)

Bench: Harish Kumar, J., decided on 14-12-2023

Topic: Non-Supply of Documents / Violation of Natural Justice

Provision: Rule 17, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment can be sustained when relied-upon documents are not supplied to the delinquent employee.

Held: Supply of relied-upon documents is an integral part of reasonable opportunity. Non-supply caused serious prejudice to the defence and vitiated the inquiry. The punishment and appellate orders were set aside.

51. Vijay Kumar Versus State of Bihar (CWJC No. 14932 of 2017)

Bench: Chakradhari Sharan Singh, J., decided on 22-08-2019

Topic: Minor Penalty / Proportionality

Provision: Rule 14, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether imposition of minor penalty without considering mitigating circumstances is sustainable.

Held: Even while imposing a minor penalty, the Disciplinary Authority must apply its mind to the nature of misconduct and mitigating factors. Mechanical imposition of penalty was held arbitrary and was set aside.

52. Umesh Kumar Sinha Versus State of Bihar (CWJC No. 24179 of 2018)

Bench: Harish Kumar, J., decided on 18-02-2021

Topic: Post-Retirement Disciplinary Proceeding – Second Round

Provision: Rule 43(b), Bihar Pension Rules, 1950

Issue: Whether disciplinary proceedings can continue after retirement when initiated during service.

Held: Once disciplinary proceedings are initiated during service, they can be continued after retirement under Rule 43(b). However, such proceedings must strictly conform to statutory requirements. Directions were issued for fresh consideration in accordance with law.

53. Umesh Kumar Sinha Versus State of Bihar (CWJC No. 6902 of 2022)

Bench: Harish Kumar, J., decided on 01-07-2024

Topic: Post-Retirement Disciplinary Proceeding – Subsequent Round / No Evidence

Provision: Rule 43(b), Bihar Pension Rules, 1950

Issue: Whether punishment under Rule 43(b) is sustainable when findings are based on no evidence.

Held: Even in post-retirement proceedings, findings must be supported by legally admissible evidence. Reliance solely on unproved documents renders the finding perverse. The punishment of pension cut was set aside.

54. State of Bihar Versus Sanjay Kumar Singh (LPA No. 401 of 2020)

Bench: Ashutosh Kumar & Partha Sarthy, JJ., decided on 04-02-2022

Topic: Scope of Appellate Interference

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether the writ court exceeded its jurisdiction by reappreciating evidence in disciplinary proceedings.

Held: The writ court's power is limited to examining procedural irregularity, perversity or violation of statutory rules. Reappreciation of evidence is impermissible. The LPA was allowed, restoring the punishment.

55. Ram Naresh Prasad Versus State of Bihar (CWJC No. 8765 of 2016)

Bench:Chakradhari Sharan Singh, J., decided on 21-08-2019

Topic: Charge Not Proved / Non-Application of Mind

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment is sustainable when the finding of guilt is not supported by evidence on record.

Held: The Disciplinary Authority failed to analyse the evidence and merely endorsed the inquiry report mechanically. Findings not supported by evidence amount to perversity. The punishment order was set aside.

56. Raghubir Singh Versus State of Bihar (CWJC No. 11403 of 2015)

Bench: Anil Kumar Sinha, J., decided on 02-12-2016

Topic: Disciplinary Proceeding – Denial of Reasonable Opportunity

Provision: Rule 17, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether disciplinary proceedings are vitiated when reasonable opportunity of defence is denied.

Held: Reasonable opportunity includes supply of documents, opportunity of cross-examination, and adequate time to respond. Denial thereof violates principles of natural justice and vitiates the entire proceeding. The punishment was quashed.

57. Shambhu Prasad Versus State of Bihar (CWJC No. 16371 of 2014)

Bench: Ajay Kumar Tripathi, J., decided on 09-01-2017

Topic: Procedural Lapses / Natural Justice

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment can be sustained when mandatory procedural safeguards are ignored.

Held: Failure to adhere to mandatory procedure prescribed under the CCA Rules results in violation of natural justice. The disciplinary action was held unsustainable and was set aside.

58. Pramod Kumar Versus State of Bihar (CWJC No. 12539 of 2013)

Bench:Navaniti Prasad Singh, J., decided on 19-09-2014

Topic: Evidence-Based Findings

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether disciplinary findings can be sustained in absence of supporting evidence.

Held: Findings in disciplinary proceedings must be based on evidence on record. Conclusions drawn without evidentiary support are arbitrary. The punishment was set aside.

59. Rameshwar Prasad Versus State of Bihar (CWJC No. 7842 of 2012)

Bench: V.N. Sinha, J., decided on 03-05-2013

Topic: Disciplinary Proceeding – Proportionality of Punishment

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment imposed is grossly disproportionate to the misconduct proved.

Held: Punishment must be commensurate with the gravity of misconduct. Disproportionate punishment shocks the conscience and warrants interference. The impugned order was modified.

60. Mushafir Singh Versus State of Bihar (CWJC No. 12451 of 2014)

Bench: Harish Kumar, J., decided on 07-01-2025

Topic: Post-Retirement Disciplinary Proceeding – Rule 43(b) / No Evidence

Provision: Rule 43(b), Bihar Pension Rules, 1950

Issue: Whether permanent withholding of pension is sustainable when, even after remand for fresh inquiry, no oral evidence is led.

Held: Though proceedings could continue under Rule 43(b), the department failed to examine any witness and relied solely on FIR, complaint, and trap memorandum. Documents do not prove themselves. In absence of proof of grave misconduct or pecuniary loss, permanent withholding of pension was arbitrary. The punishment was set aside and full pension with consequential benefits was directed.

61. Renuka Devi (D/o Bindeshwari Singh) Versus State of Bihar (CWJC No. 10748 of 2021)

Bench: Purnendu Singh, J., decided on 11-04-2025

Topic: Post-Retirement Disciplinary Proceeding – Limitation / Lokayukta's Jurisdiction

Provision: Rule 43(b), Bihar Pension Rules, 1950

Issue: Whether disciplinary proceedings initiated after retirement for events beyond four years are maintainable and whether Lokayukta can direct initiation of such proceedings.

Held: Rule 43(b) bars initiation of proceedings for events beyond four years prior to retirement. Lokayukta has no authority to direct initiation of disciplinary proceedings and can only make recommendations. The proceedings were held time-barred and without jurisdiction. Punishment orders were quashed with full consequential benefits.

62. Awadh Tiwari Versus State of Bihar & Ors. (CWJC No. 12132 of 2013)

Bench: Anil Kumar Sinha, J., decided on 14-03-2023

Topic: Disciplinary Proceeding – Fresh Inquiry after Punishment Set Aside

Provision: Rule 9(5), Bihar Government Servants (CCA) Rules, 2005; Rule 43(b), Bihar Pension Rules, 1950

Issue: Whether a fresh disciplinary proceeding can be initiated after earlier punishment is quashed on technical grounds.

Held: Where punishment is set aside on technical grounds and liberty is reserved, Rule 9(5) permits continuation or initiation of fresh proceedings. The fresh inquiry was held legally permissible and not barred.

63. Binod Kumar Versus State of Bihar & Ors. (CWJC No. 6554 of 2021)

Bench: P.B. Bajanthri, J., decided on 19-07-2022

Topic: Non-Supply of Inquiry Report / Non-Consideration of Defence

Provision: Rules 17 & 18, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal is vitiated when the inquiry report is not supplied and the reply to the second show-cause notice is not considered.

Held: Supply of the inquiry report is mandatory. Failure to consider the delinquent's reply renders the punishment order arbitrary and violative of natural justice. The dismissal and appellate orders were set aside.

64. Ishak Miya @ Ishak Mahmmad Miya Versus The State of Bihar (CWJC No. 10746 of 2019)

Bench: Rajeev Ranjan Prasad, J., decided on 18-03-2021

Topic: Stay Pending Criminal Trial / Identical Charges

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether a departmental proceeding should be stayed where the criminal case and disciplinary proceeding are based on identical charges involving grave allegations and complicated questions of fact and law.

Held: Relying on *Kusheshwar Dubey* and *Capt. M. Paul Anthony*, the Court held that although simultaneous proceedings are generally permissible, where the charges are identical, grave in nature, and the departmental inquiry would amount to a parallel criminal trial, the disciplinary proceeding ought to be stayed to avoid prejudice to the defence of the employee. The termination order was set aside and the departmental proceeding was directed to remain in abeyance till conclusion of the criminal trial.

65. Bibhuti Kumar Singh Versus State of Bihar & Ors. (CWJC No. 21259 of 2019)

Bench: Partha Sarthy, J., decided on 10-11-2025

Topic: Inquiry Officer – Mechanical Adoption of Vigilance Report

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment can be sustained when the Inquiry Officer merely reproduces vigilance allegations without independent evaluation of evidence.

Held: The Inquiry Officer acted as a post-office by mechanically endorsing the vigilance report without discussing evidence or defence, reflecting non-application of mind and perversity. Suspicion cannot substitute proof. The inquiry report and punishment order were quashed and the matter was remanded for fresh inquiry in accordance with law.

66. Devendra Prasad Versus The State of Bihar (LPA No. 1302 of 2017)

Bench: K. Vinod Chandran, CJ & Rajiv Roy, J., decided on 19-10-2023

Topic: Vigilance Report / No Evidence Rule

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether disciplinary punishment can be sustained when findings are based solely on a Vigilance Report without examination of witnesses or proof of documents.

Held: Relying on **Roop Singh Negi** and **P. Gunasekaran**, the Court held that a Vigilance Report is not substantive evidence unless proved in a departmental inquiry by examining witnesses. The inquiry suffered from a complete absence of evidence and was fundamentally flawed. Considering the superannuation of the employee and the incurable defects in the inquiry, the punishment was set aside and the appellant was granted full back wages and pensionary benefits.

67. Ram Karan Ranjan Versus State of Bihar & Ors. (CWJC No. 10441 of 2016)

Bench: Dr. Anshuman, J., decided on 15-07-2025

Topic: Disciplinary Authority – Disagreement with Exoneration

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment can be imposed when the Disciplinary Authority disagrees with the Inquiry Officer's exoneration without issuing a disagreement note.

Held: Where the Inquiry Officer exonerates the delinquent, the Disciplinary Authority must record tentative reasons for disagreement and grant opportunity of hearing. Absence of a disagreement note violates principles of natural justice. The punishment order was set aside.

68. Ranjan Kumar Versus State of Bihar (CWJC No. 6105 of 2022)

Bench: Harish Kumar, J., decided on 01-07-2025

Topic: Disciplinary Inquiry – Absence of Witness List / Inquiry Officer Acting as Prosecutor

Provision: Rule 17(3), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment can be sustained when the charge memo lacks a list of witnesses and the Inquiry Officer assumes the role of prosecutor.

Held: Rule 17(3) mandatorily requires the charge memo to contain a list of witnesses. The Inquiry Officer assuming the role of prosecutor and reliance on unproved documents amounted to violation of natural justice and resulted in findings based on no evidence. The punishment and appellate orders were quashed.

69. State of Bihar Versus Himanshu Shekhar (LPA No. 555 of 2024)

Bench: K. Vinod Chandran, CJ & Partha Sarthy, J., decided on 09-01-2025

Topic: Withholding of Promotion – Minor Penalty

Provision: Rule 14(ii) and Explanation (ii), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether withholding of promotion constitutes a penalty under the CCA Rules.

Held: Rule 14(ii) expressly classifies withholding of promotion as a minor penalty. Explanation (ii) cannot override the substantive provision and applies only to administrative situations. The LPA was allowed and the Single Judge's order was set aside.

70. State of Uttar Pradesh through Principal Secretary, Department of Panchayati Raj, Lucknow Versus Ram Prakash Singh (Civil Appeal No. 14724 of 2024)

Bench: Dipankar Datta & Prashant Kumar Mishra, JJ., decided on 23-04-2025

Topic: Repeated Procedural Violations / Refusal of Third Remand

Provision: Rule 7(vii), U.P. Government Servants (Discipline and Appeal) Rules, 1999

Issue: Whether a third opportunity for conducting a fresh inquiry should be granted after repeated failures to follow mandatory procedure.

Held: Considering repeated procedural lapses, long lapse of time, superannuation of the employee, and need for finality, the Court declined to grant a third remand. The appeal was dismissed and the respondent was held entitled to full retiral benefits.

71. Maharana Pratap Singh Versus State of Bihar (Civil Appeal No. 5497 of 2025)



Bench: Dipankar Datta & Prashant Kumar Mishra, JJ., decided on 23-04-2025

Topic: Vague Charges / No Evidence / Relief by Compensation

Provision: Service jurisprudence principles

Issue: Whether dismissal can be sustained when the charge-sheet is vague and findings are based solely on unproved documents.

Held: Vague charges vitiate disciplinary proceedings. Documents do not prove themselves and must be proved through witnesses. As reinstatement was impracticable due to age, the dismissal was set aside and lump-sum compensation was awarded.

72. State of Bihar Versus Md. Shamim Akhtar (LPA No. 1653 of 2016)

Bench: P.B. Bajanthri & Arun Kumar Jha, JJ., decided on 19-01-2023

Topic: Disciplinary Authority – Power after Inquiry Report

Provision: Rule 18, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether the Disciplinary Authority can amend charges and order a fresh inquiry after receipt of the inquiry report.

Held: After receipt of the inquiry report, the Disciplinary Authority may accept the findings, disagree with reasons, or remit the matter for further inquiry to cure defects. It cannot order a fresh inquiry or amend charges merely because findings are unsatisfactory. The LPA was dismissed.

73. ChakleshwarKharwar Versus State of Bihar (CWJC No. 7511 of 2022)

Bench: Harish Kumar, J., decided on 08-10-2024

Topic: Disciplinary Inquiry – Denial of Cross-Examination / Documents as Sole Basis

Provision: Rule 17, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment is sustainable when the delinquent is denied opportunity of cross-examination and findings are based only on documents.

Held: Denial of opportunity to cross-examine witnesses whose statements form the basis of charges violates principles of natural justice. Documents do not prove themselves and must be proved through

witnesses. Findings based solely on such material amount to no evidence. The punishment order was set aside.

74. Uday Pratap Singh Versus The State of Bihar & Ors. (CWJC No. 6994 of 2016)

Bench: Jyoti Saran, J., decided on 13-07-2017

Topic: Competence of Authority / Rule 17 as Complete Code

Provisions: Rules 2(f), 2(j), 16, 17(3), 17(4), 17(5) & 17(14), Bihar Government Servants (Classification, Control & Appeal) Rules, 2005

Issue: Whether a disciplinary proceeding culminating in dismissal is sustainable when (i) the proceeding is initiated by an incompetent authority, and (ii) the mandatory procedure prescribed under Rule 17 for major penalty proceedings—including appointment of Presenting Officer, supply of documents, and proof of charges through evidence—is not followed.

Held: The Court held that the disciplinary proceeding stood vitiated at its inception as it was initiated by an authority other than the competent Disciplinary Authority as defined under Rules 2(f) and 2(j). The Court further held that Rule 17 constitutes a complete and mandatory procedural code for imposition of major penalties, and its safeguards cannot be bypassed on the ground of seriousness of allegations. Non-appointment of a Presenting Officer, failure to supply relied-upon documents, and complete non-compliance with Rule 17(14) relating to leading of oral and documentary evidence amounted to giving a “complete go-bye” to the statutory procedure. The Court reiterated that documents do not prove themselves and charges must be proved by legally admissible evidence. Principles of natural justice having been violated at every stage, the entire disciplinary proceeding and the order of dismissal were quashed.

Cited / Relied Upon:

- *State of U.P. v. Saroj Kumar Sinha*, (2010) 2 SCC 772 – Inquiry Officer cannot act as prosecutor; charges must be proved through evidence
- *Roop Singh Negi v. Punjab National Bank*, (2009) 2 SCC 570 – Suspicion and unproved documents cannot take the place of proof

• *Union of India v. B. Karunakar*, (1993) 4 SCC 727 – Supply of inquiry report and fair opportunity are mandatory components of natural justice

75. Saroj Kumar Manjhi Versus The State of Bihar & Ors. (CWJC No. 131 of 2017)

Bench: Jyoti Saran, J., decided on 11-04-2017

Topic: No Evidence / Preliminary Inquiry Not a Substitute

Provision: Rule 17(3), Rule 17(5) & Rule 17(14), Bihar Government Servants (Classification, Control & Appeal) Rules, 2005

Issue: Whether disciplinary punishment can be sustained when charges are founded on a preliminary inquiry and unproved documents without leading oral evidence in the regular departmental inquiry.

Held: The Court held that a preliminary inquiry has no evidentiary value and can only be used to decide whether a regular departmental proceeding should be initiated. In the absence of examination of witnesses and proof of documents in terms of Rule 17(14), the findings recorded by the Inquiry Officer are rendered perverse and based on no evidence. The Court reiterated that documents do not prove themselves and must be proved through legally admissible evidence. Non-compliance with the mandatory procedure under Rule 17 vitiated the entire proceeding, and the punishment order was quashed.

76. Ashok Kumar Sharma Versus The State of Bihar (CWJC No. 6670 of 2018)

Bench: Dr. Anshuman, J., decided on 06-03-2024

Topic: Simultaneous Criminal and Departmental Proceedings

Issue: Whether departmental proceedings should be stayed during pendency of a criminal case arising out of the same facts.

Held: Departmental and criminal proceedings operate in distinct fields with different standards of proof. While criminal cases require proof beyond reasonable doubt, departmental proceedings are governed by the standard of preponderance of probabilities. There is no absolute bar to continuation of departmental proceedings merely because a criminal case is pending. The writ petition was disposed of with a direction to proceed strictly in accordance with the CCA Rules.

77. Upendra Kumar Bhagat Versus High Court of Judicature at Patna (CWJC No. 15655 of 2022)

Bench: K. Vinod Chandran, CJ & Partha Sarthy, J., decided on 25-03-2025

Topic: Effect of Modified Punishment on Promotion / Rule 14 Interpretation

Provision: Rule 14 & Explanation 2(i), Bihar Government Servants (Classification, Control & Appeal) Rules, 2005

Issue: Whether, after the High Court set aside a prior minor punishment and modified it to a warning, the adverse effect on promotion and pay consequences continues beyond the statutory period under Rule 14.

Held: Once the earlier punishment is set aside and treated as a warning from the original date, its adverse impact on promotion and service benefits must be governed strictly by Explanation 2(i) to Rule 14. The employer cannot continue to deny promotional consideration or other consequential benefits beyond the statutorily permissible period. Continued denial dehors Rule 14 was held to be arbitrary and unreasonable, warranting interference.

78. Chaudhary Nagmani Chakravarti v. The State of Bihar & Ors. (LPA No. 533 of 2019)

Bench: P.B. Bajanthri and Purnendu Singh, JJ., passed on 06-12-2022

Topic: Procedural non-compliance in disciplinary inquiry/Scope of remand

Provision: Rule 17(5), Bihar Government Servants (Classification, Control & Appeal) Rules, 2005

Issue: Whether repeated and fundamental procedural lapses in a departmental inquiry justify interference and remand for fresh inquiry.

Held: departmental inquiry suffered from serious and recurring procedural defects and non-compliance with Rule 17 of the Bihar CCA Rules, 2005, particularly in the manner of conduct of the inquiry. Holding that the proceeding was not carried out in accordance with the statutory framework, the Court interfered with the disciplinary action and

remanded the matter with a direction to conduct the inquiry afresh strictly in accordance with law. The appeal was disposed of accordingly.

79. Chandra Bhushan Choudhary Versus The State of Bihar & Ors.

(CWJC No. 5741 of 2017)

Bench: Jyoti Saran, J., decided on 15-09-2017

Topic: Deemed Acceptance of Voluntary Retirement / Bar on Post-Retirement Disciplinary Action

Provision: Rule 74(b), Bihar Service Code; Bihar Government Servants (Classification, Control & Appeal) Rules, 2005

Issue: Whether, in the absence of suspension or initiation of disciplinary proceedings within the statutory notice period, an application for voluntary retirement stands deemed accepted, thereby rendering subsequent orders of compulsory retirement or penalty unsustainable.

Held: Once the petitioner's notice for voluntary retirement was neither refused within the prescribed three-month period nor were any disciplinary proceedings pending or initiated during that period, the retirement stood deemed accepted under Rule 74(b) of the Bihar Service Code. Consequently, the petitioner was deemed to have retired on expiry of the notice period, and any subsequent order of compulsory retirement or imposition/modification of penalty passed thereafter was without jurisdiction. The impugned orders were quashed and the petitioner was held entitled to all consequential retiral benefits.

80. Bhim Singh Versus The State of Bihar & Ors. (CWJC No. 17896 of 2018)

Bench: Harish Kumar, J., decided on 22-11-2023

Topic: Non-Supply of Documents / Prejudice Presumed

Provision: Rule 17(3) & 17(4), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment can be sustained when relied-upon documents are not supplied to the delinquent.

Held: Supply of relied-upon documents is a mandatory component of reasonable opportunity. Prejudice is presumed when documents forming

the foundation of charges are withheld. The inquiry stood vitiated irrespective of the nature of misconduct alleged. Punishment order was set aside.

81. Ramesh Kumar Versus The State of Bihar & Ors. (CWJC No. 8329 of 2017)

Bench:Chakradhari Sharan Singh, J., decided on 04-04-2019

Topic:Findings Based on No Evidence

Provision: Rule 17(14), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether disciplinary findings can be sustained when no oral evidence is led and documents are not proved.

Held:Even under the standard of preponderance of probabilities, findings must be supported by legally admissible evidence. Reliance on unproved documents amounts to a finding based on no evidence and invites interference. The punishment order was quashed.

82. Jitendra Kumar Singh Versus The State of Bihar & Ors. (CWJC No. 13218 of 2016)

Bench: Ajay Kumar Tripathi, J., decided on 09-01-2018

Topic: Delay in Conclusion / Fairness of Inquiry

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether inordinate and unexplained delay in concluding disciplinary proceedings vitiates punishment.

Held:Disciplinary proceedings must be concluded within a reasonable time. Prolonged delay, not attributable to the delinquent, causes serious prejudice and undermines fairness. On facts, the punishment was interfered with on the ground of delay alone.

83. Suresh Prasad Singh Versus The State of Bihar & Ors. (CWJC No. 11943 of 2015)

Bench: Anil Kumar Sinha, J., decided on 21-08-2018

Topic:Disagreement with Inquiry Report

Provision: Rule 18, Bihar Government Servants (CCA) Rules, 2005

Issue: Whether punishment can be imposed without issuing a disagreement note when the Inquiry Officer has exonerated the delinquent.

Held: Where the Inquiry Officer records a finding of no guilt, the Disciplinary Authority must record tentative reasons for disagreement and afford opportunity of hearing. Absence of a disagreement note violates natural justice and vitiates the punishment.

84. Mazda Khatoon Versus The State of Bihar (CWJC No. 11085 of 2012)

Bench: Purnendu Singh, J., decided on 30-07-2024

Topic: Approval of Charge Memo / Competence of Authority

Provision: Rules 16 & 17, Bihar Government Servants (Classification, Control & Appeal) Rules, 2005; Article 166, Constitution of India

Issue: Whether disciplinary proceedings are sustainable when the charge memo (Prapatra-K) is not approved by the competent Disciplinary Authority as required under the Rules of Executive Business and the CCA Rules.

Held: Relying on *B.V. Gopinath* and *Bachhittar Singh*, the Court held that approval of the charge memo by the competent authority is mandatory and not a procedural formality. Failure to place the charge memo for approval before the Government/Minister-in-charge violated Rules 16 and 17 of the CCA Rules and Article 166 of the Constitution. Any punishment founded on such an unapproved charge memo is without jurisdiction. The punishment and revisional orders were set aside, with liberty to the State to proceed afresh in accordance with law.

85. Kaushlya Devi Versus The State of Bihar (CWJC No. 9735 of 2021)

Bench: Harish Kumar, J., decided on 11-01-2023

Topic: Abatement on Death / Civil Death

Provision: Bihar Pension Rules; Service Jurisprudence Principles

Issue: Whether disciplinary proceedings and dismissal orders can survive against an employee who has been declared civilly dead prior to the passing of the punishment order.

Held: The Court held that disciplinary proceedings abate upon the death of the delinquent employee, as the employer-employee relationship ceases to exist. Once a competent civil court declared the employee civilly dead w.e.f. 03.03.2002, any dismissal order passed thereafter was a nullity,

being against a dead person. The respondents were directed to release all death-cum-retiral benefits and family pension with statutory interest.

86. Nirmal Kumar Versus The State of Bihar & Ors. (CWJC No. 1584 of 2020)

Bench: Dr. Anshuman, J., decided on 23-11-2023

Topic: Minor Penalty / Disputed Facts

Provision: Rule 19 read with Rule 18(3), Bihar Government Servants (CCA) Rules, 2005

Issue: Whether a minor penalty can be imposed without holding a regular inquiry when the facts are disputed.

Held: Relying on *O.K. Bhardwaj v. Union of India*, the Court held that even for minor penalties, a regular departmental inquiry is mandatory where facts are disputed. Failure to conduct such an inquiry rendered the punishment unsustainable. The impugned orders were set aside and the matter was remanded for fresh consideration in accordance with law.

87. Rahul Kumar Singh Versus The State of Bihar (CWJC No. 11354 of 2024)

Bench: Sandeep Kumar, J., decided on 09-10-2025

Topic: Natural Justice / Disproportionate Punishment

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether dismissal is sustainable when the delinquent is not afforded adequate opportunity of defence and the punishment is disproportionate.

Held: The Court held that imposition of the extreme penalty of dismissal without due consideration of the defence and without adhering to principles of natural justice is unsustainable. The dismissal and appellate orders were quashed and reinstatement with consequential benefits was directed.

88. Surya Kant Singh Versus The State of Bihar (CWJC No. 4513 of 2020)

Bench: Anjani Kumar Sharan, J., decided on 08-10-2024

Topic: Non-Consideration of Defence / Administrative Lapses

Provision: Bihar Government Servants (CCA) Rules, 2005



Issue: Whether disciplinary punishment can be sustained when the explanation of the delinquent is not considered.

Held: The Court found that the punishment order was passed without considering the petitioner's explanation, vitiating the decision-making process. Referring to *Pankaj Kumar v. State of Bihar*, the Court lamented repeated procedural lapses due to lack of training of Disciplinary Authorities and directed the Chief Secretary to organize training workshops. The punishment order was set aside.

89. Satyendra Narayan Singh Versus The State of Bihar (CWJC No. 15706 of 2021)

Bench: Harish Kumar, J., decided on 01-08-2025

Topic: Consequential Benefits after Quashing of Dismissal

Provision: Bihar Government Servants (CCA) Rules, 2005

Issue: Whether reinstatement with back wages should ordinarily follow when dismissal is set aside.

Held: Relying on *Deepali Gundu Surwase*, the Court held that reinstatement with continuity of service and back wages is the normal rule when dismissal is found illegal, subject to limited exceptions. The dismissal order was set aside and consequential benefits were directed, with liberty to the State to act depending on the outcome of the criminal case.

90. Bachneshwar Jha Versus The State of Bihar (CWJC No. 5921 of 2016)

Bench: Dr. Anshuman, J., decided on 28-01-2025

Topic: Post-Retirement Disciplinary Proceeding – Retrospective Dismissal

Provision: Rule 43(b), Bihar Pension Rules, 1950

Issue: Whether dismissal order passed after superannuation with retrospective effect is legally sustainable.

Held: Though dismissal with retrospective effect is technically irregular, the disciplinary proceeding having been initiated during service, the relationship of master and servant is deemed to continue for the limited purpose of concluding the inquiry. Applying the principle laid down in *R. Jeevaratnam v. State of Madras*, the dismissal was held to operate

prospectively and was not rendered invalid. The writ petition was dismissed.

91. Rameshwar Paswan vs. State of Bihar, 2023(3) PLJR 105.
Departmental proceeding - role and duty of the enquiry officer

The enquiry officer is in the nature of quasi-judicial authority and he is in the position of an independent adjudicator. Enquiry officer is not supposed to be an agent/representative of the department and/or disciplinary authority and his duty is to examine the evidence presented by the department through the Presenting Officer to see as to whether the evidence produced is sufficient to hold the charges proved.

92. State of Bihar vs. Rajendra Ram, 2022(3) PLJR 800.
Judicial review

Under judicial review, the Court cannot interfere with the finding of facts based on evidence and substitute its own finding. However, the Court has to see that proper procedure were followed in the proceeding and also whether the principle of natural justice was followed in the matter or not. Once the charges are framed and supplied to delinquent officer and concerned officer dispute the same in its show cause, an oral enquiry followed by examination/cross-examination of the witnesses are must irrespective of the fact whether the employee makes a request in this regard or not. Notice need be issued to him indicating the date, time and place of the enquiry and on that date the oral and documentary evidence against the employee should be led in his presence. It is also important that the employer should adduce his evidence whereafter the employee may be asked to lead his evidence. Statement of all the witnesses should be recorded in the presence of delinquent officer unless there are reasons to act otherwise. If it is examined in the absence of the delinquent officer and materials not supplied to him, the procedure is illegal. Where no enquiry was held either by examining the witnesses and/or affording delinquent officer to cross-examine them as also no paper was allowed to be seen by the delinquent

officer and no oral evidence was recorded by the enquiry officer, the same is/was in the teeth of the principles of natural justice and any order passed therein will be deemed to be an illegal order.

93. Ram Datta Prasad Sharma vs. State of Bihar, 2022(2) PLJR 59
Departmental proceedings/Punishment

In earlier writ petition, High Court remitted the case to concerned authority for passing an appropriate order after giving opportunity to appellant to file his response to the inquiry report. However, disciplinary authority reiterated the same punishment. Said order was also challenged in another writ petition, however, the same was withdrawn in order to prefer an appeal against the order of punishment. A representation preferred by the appellant before the Government was treated as appeal and concerned authority, upheld the order of punishment. Single Judge in view that the charges were proved, upheld the order. Appellant has participated in the departmental proceeding and has also been given sufficient opportunity to challenge the inquiry report as also the decision of the punishment before the appellate authority. Plea that his representation was treated as an appeal appellant has chosen not to file his appeal despite clear directions by High Court and since the matter was sent to the appellate authority, the Government, for its endorsement of the decision of the disciplinary authority, an order was passed which took note of the circumstances and the background facts as well as evidence collected against appellant. Order passed by Single Judge upheld.

94. Krishna Kant Kumar vs. State of Bihar, 2022(2) PLJR 468.
Departmental proceedings - Non-application of mind

Petitioner's explanation to the second show cause notice not considered only on the score of being belated. Earlier on two occasions the inquiry officer held that the charges leveled against the petitioner not proved. Disciplinary authority disagreeing with enquiry report proceeded to issue second show cause for which petitioner submitted his explanation but the same was not

considered. Impugned order of dismissal passed is total non-application of mind. The very object of issuance of show cause notice and obtaining reply would be defeated. Impugned order set aside matter remitted for passing speaking order. The intervening period from the date of dismissal till final order to be passed by the disciplinary authority is required to be examined as to how it is to be regulated like whether petitioner is deemed to be under suspension or he shall be taken back to the duty, subject to outcome of the final order passed by disciplinary authority.

95. Eastern Coalfields Limited vs. Rabindra Kumar Bharti, 2022(2) PLJR (SC)408.
Disciplinary Proceeding and Criminal proceeding

When charges are identical and gives rise to complicated issues of the fact and law and evidence is the same, it may not be appropriate to proceed simultaneously in disciplinary proceedings, along with criminal case however, it is not an absolute embargo and the principle is to be applied based on the facts of each case. When parallel proceedings are held on the basis of identical charges and the same evidence, the employee should not be allowed to disclose his defence.

96. Chairman, State Bank of India vs. M.J. James, 2022(1) PLJR (SC)176.
Departmental Proceedings/Appeal

Appeal should be filed within a reasonable time. What is a reasonable time is not to be put in a straitjacket formula or judicially codified in the form of days etc. as it depends upon the facts and circumstances of each case. A right not exercised for a long time is non-existent doctrine of delay and laches as well as acquiescence are applied to non-suit the litigants who approach the court/appellate authorities belatedly without any justifiable explanation for bringing action after unreasonable delay. The State being a virtuous litigant should meet the genuine claims and not deny them for want of action on their part. However, this general principle would not apply

when, on consideration of the facts, the court concludes that the respondent had abandoned his rights, which may be either express or implied from his conduct. Abandonment implies intentional act to acknowledge.

97. Chairman, State Bank of India vs. M.J. James, 2022(1) PLJR (SC)176.

Departmental Proceedings - choice of representation in domestic inquiry

Representations are often restricted by a law. The right to be legally represented depends on how the rules govern such representation. Further, if the rules are silent, the party has no absolute right to be legally represented. However, the entitlement of a fair hearing is not to be dispensed with. What fairness requires would depend upon the nature of the investigation and the consequences it may have on the persons affected by it. The right to be represented by a counsel or agent of one's choice is not an absolute right but one which can be controlled, restricted, or regulated by law, rules, or regulations. However, if the charge is of severe and complex nature, then the request to be represented through a counsel or agent should be considered.

98. Ugrasen vs. Union of India, 2022(1) PLJR 19.

Departmental Proceedings - Staying of proceedings

In view of staying of criminal proceeding by the High Court, the disciplinary authority stayed the departmental enquiry till the outcome of the criminal case. However, after lapse of more than one year the disciplinary authority issued order directing the Inquiry Officer to proceed with the departmental enquiry. Disciplinary authority by staying the proceeding had not decided the final outcome or accomplished the purpose of the departmental enquiry. Disciplinary authority is required to take decision at different stages of a departmental enquiry and many a times he has to revise his earlier decisions, in view of changing circumstances. Decision of disciplinary authority taken at different stages of departmental enquiry do not make him

functus officio for that stage. Only a decision of the final award of punishment or exoneration/dropping of charge by the disciplinary authority can make him functus officio. Decision to stay or resume the departmental proceeding cannot be called an exercise of quasi-judicial power and hence, such orders do not make the disciplinary authority functus officio for that stage. Furthermore, the two proceedings, criminal and departmental, are entirely different and they operate in different fields and have different objective. Moreover, in the instant case, the charge in the departmental proceedings is different from the charge in the criminal proceedings. Impugned order is in accordance with law.

99. Nilima Sinha vs. State of Bihar, 2022(1) PLJR 396

Departmental Proceedings - Evidence

The quality of evidence is important and not the quantity thereof, thus if the number of witnesses examined during the course of departmental proceedings are sufficient, in the wisdom of the prosecution as also the Enquiry Officer, to prove the charges levelled against the petitioner/the delinquent, it is not necessary that all the charge sheeted witnesses should be examined.

100. Dinesh Prashad vs. State of Bihar, 2022(1) PLJR 332.

Departmental Proceedings - Ex-parte inquiry

Inquiry proceedings initiated while petitioner was in custody in jail. Inquiry officer had conducted ex-parte inquiry and submitted his report holding charges proved. However, the petitioner after release from custody submitted his joining and had filed representation before the inquiry officer to grant him opportunity to participate in the proceeding and submit his defence. Inquiry officer by way of an empty formality, had asked for a reply from the petitioner, but had failed to permit the petitioner to cross-examine five other witnesses, who had been examined during the course of the earlier inquiry proceedings. Major part of the enquiry proceedings held behind the back of the petitioner. Inquiry officer failed to consider, in his

supplementary inquiry report, the defence submitted by the petitioner to the charges levelled against him. Entire inquiry proceeding including the inquiry report and the supplementary inquiry report vitiated. Inquiry report quashed, impugned punishment also quashed.

Departmental Proceedings - Appellate order

Appellate order not considered the issues raised by the petitioner in his appeal, held perverse. Impugned order passed without application of mind. Appellate order quashed.

Departmental Proceedings - Remission

Inquiry report, second show cause and appellate order all are vitiated in the eyes of law and quashed. However, the matter remitted back to disciplinary authority with liberty to proceed afresh from the stage of issuance of memo of charges. Petitioner reinstated. However, the payment of the consequential benefit shall abide by the final outcome of the fresh disciplinary proceeding.

101. Mohd. Ali Jinnah vs. State of Bihar, 2022(1) PLJR 884.

Departmental Proceedings - Back wages

Punishment of dismissal quashed and matter remanded. Intervening period from the date of dismissal till final order to be passed in disciplinary proceeding shall be taken in consideration and shall be decided in the light of Apex Court decision i.e. the delinquent can simply be reinstated and put under suspension and would be entitled to subsistence allowance. Question of back wages shall be determined by the disciplinary authority in accordance with law only on the conclusion of the fresh enquiry.

102. Alok Ranjan vs. National Institute of Technology, 2022(1) PLJR 731.

Departmental proceedings - Bias

Petitioner had purloined one answer book while invigilating in the forenoon session, which he used in the afternoon session when he himself was an

examinee. Answer-book submitted by the petitioner was pre-written on the answer-book with a different code which answer-book had been circulated in the forenoon session of the examination and not in the afternoon session. Petitioner was given the list of documents which were proposed to be used in the departmental proceeding. Non-supply of Invigilators Duty chart did not cause any prejudice to him. Merely because the enquiry officer was also the Member of the Board of Governors of the NIT, that by itself would not prove any bias, more so, when element of personal bias not been shown. The suggestion of enquiry officer regarding the quantum of punishment only reflected his concern about the nature and gravity of offence which was proved, but that did not at all speak of bias. No fault with the entire process of conducting the disciplinary proceeding against the petitioner as also the punishment imposed on him.

103. Ashok Paswan vs. State of Bihar, 2021 (4) PLJR 490

Departmental Proceedings - Demand of bribe

A charge containing allegation of demand or acceptance of bribe ordinarily cannot be proved in the absence of any oral evidence, unless such charge has been proved earlier in any other judicial or quasi-judicial proceeding. It is against basic logic and comprehension that a charge relating to demand or acceptance of bribe can be established by a Department against a Government servant without any witness before the Inquiring Authority unless specifically admitted by the delinquent. The technical rules which govern the criminal trials in Court may not necessarily apply to the disciplinary proceeding, nevertheless, the principle that in punishing the guilty, scrupulous care must be taken to see that the innocent are not punished, applies as much to regular criminal trials as to the disciplinary proceedings.

104. Anand Kumar Singh vs. State of Bihar, 2021 (4) PLJR 50.

Departmental enquiry - Quasi-judicial in nature

Enquiry officer should act like an independent adjudicator. Natural justice-- Presenting officer not appointed. Enquiry officer also acting as presenting officer - not permissible. Enquiry vitiated. Petitioner was reinstated. Respondents given liberty to proceed with the enquiry afresh from the stage of appointing a presenting officer.

105. Ashok Paswan vs. State of Bihar, 2021 (4) PLJR 490.

Departmental Proceedings - Standard of proof

The authorities empowered to take disciplinary action, on the allegation of misconduct and more particularly when such misconduct constitutes criminal liability also, must keep in mind the fact that institution of a criminal case itself is not a misconduct. The allegation which constitutes a criminal offence can certainly be a basis for initiation of departmental enquiry, simultaneously. A charge in the criminal case is to be strictly proved on the standard of "beyond all reasonable doubts". At the same time, if the Disciplinary Authority decides to take disciplinary action in respect of the same charge, it is incumbent upon the Department to establish the said charge before the Inquiring Authority at least on the standards of preponderance of probabilities. Mere fact that a criminal case has been registered leading to arrest of a Government servant can itself not be a basis for imposition of punishment under the Rules governing imposition of punishment against Government servant.

106. Anil Kumar Singh vs. South Bihar Power Distribution Co. Ltd., 2021 (4) PLJR 388.

Departmental Proceedings - Disciplinary/Appointing authority

As per scheme of delegation of power, the authority higher than the authority competent to exercise power under this delegation shall have power to exercise these powers even if there is no specific delegation to that effect. Thus, Managing Director who is an authority higher to the General Manager-cum-Chief Engineer, held, fully competent and empowered to act

as disciplinary authority of petitioner and Chairman-cum-Managing Director is the competent appellate authority in such cases.

107. Ganesh Prasad Yadav vs. State of Bihar, 2021(3) PLJR 805.

Departmental Proceedings - Perverse finding

Charge-sheet nowhere mentioning 'ill motive' on part of petitioner in recommending price neutralization. Yet while disagreeing with enquiry report disciplinary authority returning a finding of 'ill motive'. Order of punishment perverse and not sustainable.

108. Sipahi Ram vs. State of Bihar, 2021(2) PLJR 280.

Disciplinary Proceedings - Statutory procedure

Lack of knowledge of statutory procedure prescribed for taking disciplinary action against a Government servant entails serious consequences. Jurisdiction which is exercised by an authority of taking disciplinary action against a Government servant is a quasi-judicial function, which is supposed to be discharged with utmost care and caution strictly adhering to mandatory statutory prescriptions and principles of the natural justice. Failure on the part of such functionaries to comply with and follow such provisions and the principles of natural justice renders a disciplinary action taken against a delinquent vulnerable and results into an errant Government servant going unpunished even for the most serious of the misconduct. If the functionaries exercising power of disciplinary control fail to or refuse to give due regard to the mandatory statutory provisions governing and regulating disciplinary action, consequence can be grave and against public interest.

109. Savita Verma vs. State of Bihar, 2021(2) PLJR 426.

Departmental Proceedings - Substitution of wife

Substitution of wife of the writ petitioner due to his death during the pendency of earlier writ petition. Said writ petition was allowed by settling aside the order passed by the appellate authority as non-speaking and

remanded the matter for passing fresh order. Appellate authority set aside the order of dismissal of petitioner's husband and remanded the matter to the disciplinary authority directing the disciplinary authority to pass order afresh after examining the evidence of the witnesses. Petitioner filed the writ petition challenging the entire departmental proceeding as the same abated due to death of the petitioner's husband. Appellate authority in his order opined that certain witness, whose examination was crucial for the departmental enquiry was essential to establish the charge against the petitioner's husband were not examined during the departmental enquiry. Witnesses cannot be examined during the departmental enquiry now in the absence of delinquent government servant, who is no more as availability of opportunity to cross-examine the witnesses has extinguished because of this situation, the departmental proceeding will abate. Order of dismissal having already been set aside by the Appellate Authority, petitioner's husband be treated to have not been ever dismissed from service and the petitioner entitled to all consequential benefits in terms of arrears of salary and death-cum-retiral dues.

110. State of Rajasthan vs. Heem Singh, 2021(1) PLJR (SC)127.

Disciplinary Proceedings - Judicial review

Disciplinary enquiries have to abide by rules of natural justice, but they are not governed by strict rules of evidence which apply to judicial proceedings. The standard of proof is not the strict standard which governs a criminal trial of proof beyond reasonable doubt but a civil standard governed by a preponderance of probabilities within the rule of preponderance, there are varying approaches based on context and subject. The first end of the spectrum is founded on deference and autonomy - deference to the position of the disciplinary authority as a fact finding authority and autonomy of the employer in maintaining discipline and efficiency of the service. At the other end of the spectrum is the principle that the court has the jurisdiction to interfere when the findings in the enquiry are based on no evidence or when they suffer from perversity. A failure to consider vital evidence is an incident of what the law regards as a perverse determination of fact. Service

jurisprudence has recognized proportionality for long years in allowing for the authority of the court to interfere when the finding or the penalty are disproportionate to the weight of the evidence or misconduct. Judicial craft lies in maintaining a steady sail between the banks of these two shores termed as the two ends of the spectrum.

111. Deputy General Manager (Appellate Authority) vs. Ajai Kumar Srivastava, 2021 (1) PLJR (SC)419.
Disciplinary Proceedings - Disagreement with findings

Where the enquiry officer is not the disciplinary authority, on receiving the report of enquiry, the disciplinary authority may or may not agree with the findings recorded by the former. In case of disagreement, the disciplinary authority has to record the reasons for disagreement and after affording an opportunity of hearing to the delinquent may record his own findings if the evidence available on record be sufficient for such exercise or else to remit the case to the enquiry officer for further enquiry. Strict rules of evidence are not applicable to departmental enquiry proceedings. The only requirement of law is that allegation against the delinquent must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at a finding upholding the gravity of the charge against the delinquent employee. Mere conjecture or surmises cannot sustain the finding of guilt even in the departmental enquiry proceedings.

112. Shiwnandan Sah vs. State of Bihar, 2020(3) PLJR 49.
Departmental Proceedings - Disproportionate assets

Economic Offences Wing opining that as petitioner did not disclose all properties owned by him and his wife, he was having assets disproportionate to all known sources of his income. Proceedings initiated on that basis. Petitioner charged with concealing some of the properties held by him and his wife defying Government circulars. Criminal case pending, though charge-sheet submitted. Enquiry officer opining, based on facts mentioned in the charge-sheet, written statement of defence of the petitioner

and opinion of the department submitted before the Inquiry Officer in respect of the charges and analysing these documents that "charges appear to have been prima facie proved". Punishment of dismissal imposed on the petitioner. Finding of enquiry officer only tentative and not conclusive, being 'prima facie'. Petitioner representing against enquiry findings in his second show cause. Petitioner's reply comments not considered by disciplinary authority. Breach of Rule 18(4) of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005. Order of dismissal set aside.

113. Shihwandan Sah vs. State of Bihar, 2020(3) PLJR 49.

Departmental Proceedings - Second show cause

Second show cause notice on the point of punishment is no more a mandatory statutory requirement but it is mandatory under the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005, Rule 18(4) and is in tune with principles of natural justice.

114. Krishna Kant Jha vs. State of Bihar, 2020(3) PLJR 863.

Disciplinary Proceeding - Recording of reasons by appellate authority

There can be separate reasons other than those recorded by the disciplinary authority even while upholding a punishment order. Appellate order should also infuse a confidence that case of appellant was appropriately dealt with. Function of deciding an appeal on the administrative side can be a quasi-judicial function but whenever a penalty is imposed or a punishment awarded it brings about serious civil consequences and amounts to deprivation of a means of livelihood in cases like dismissal or termination. In such matters, hope and expectation from an appellate authority to decide upon a consideration of the entire material is a genuine expectation which can be satisfied by the expression of a few words, howsoever brief they are, that may reflect a presumption of consideration. Assumption recorded by Single Judge that there is no possibility of change in the ultimate view adopted by appellate authority amounts to presuming that the appellate

authority cannot take a different view even if it has to record reasons. Recording of even a consideration of defence of appellant or reasons not to accept them is within the realm of the appellate authority and also its obligation. Presumption drawn by Single Judge that appellate authority will not be able to take a different view would be questioning the capacity and authority of the appellate body to take its own decision. Appellate order and judgment of Single Judge set aside High Court to consider appeal again and take an appropriate decision.

115. Krishna Kant Jha vs. State of Bihar, 2020(3) PLJR 863.

Disciplinary Proceeding - Recording of reasons

Aspects relating to variation in evidence and its assessment by disciplinary authority, in spite of its existence on record was not considered by any reason being recorded in punishment or appellate order. The reason howsoever brief deserves to be recorded in any order, particularly in a matter arising out of a disciplinary proceeding. Impugned appellate order nowhere reflects the same. Plea that recording of reasons is not necessary as there is a presumption that when such a decision is taken by Standing Committee of High Court in appeal, every material was examined before proceeding to take a decision. Even if such a presumption exists, yet existence of power is one thing and its exercise is another. Exercise of such powers is quasi-judicial in nature, therefore, recording of at least brief reasons may be necessary, particularly in cases where the evidence is contested. Separate reasons may not be required while affirming order of punishment, but the reasons which are being affirmed should find some discussion or reference in order to indicate that appellate authority has taken into consideration not only the reasons recorded by disciplinary authority, but also the grounds taken for questioning the correctness of such reasons.

Disciplinary Proceeding - Collective decision/Presumption

Decision was not taken by an individual, but is a collective decision of the Judges of the Standing Committee. Therefore, the presumption is that the issues raised were deliberated upon, and then a conclusion was drawn on the basis of the material on record. A presumption of consideration would be complete if there is some reflection of the consideration of the entire material on record. It is a presumption about the consideration of the material or grounds of appeal that comes to the fore for consideration. The ultimate decision by a one word or one phrase appellate order, that does not reflect on the consideration of the grounds of an appeal and the material on record, cannot by itself be said to indicate some kind of a gloss over the material on record. The ultimate recording of a decision in order to raise such a presumption of consideration of the material on record and the grounds of appeal can be validated if decision or resolution, howsoever brief it may be, indicates the acceptance of the reasons recorded by the disciplinary authority or rejection of the grounds of appeal.

116. Daya Nand Mishra vs. State of Bihar, 2020(1) PLJR 360.

Departmental Proceedings - Principles of natural justice/Waiver

Delinquent employee given several opportunities even revoking his suspension but he did not participate in enquiry. Even in reply to second show cause notice not offering any comment on enquiry report. Continuing to request to keep proceedings pending till completion of criminal proceedings. A case of deemed waiver of natural justice. Impugned order not interfered with.

117. Chairman-cum-Managing Director, Mahanadi Coalfields Limited vs. Rabindranath Choubey, 2020(3) PLJR (SC)438.

Departmental Proceedings - Retired employee

Purpose of holding an inquiry against a delinquent is not only to establish the charge levelled against him or to impose a penalty, but is also conducted with the object of recording the truth of the matter, and in that sense, the outcome of an inquiry may either not establishing or vindicating his stand,

hence result in his exoneration. Therefore, there should be a fair action on the part of the authority concerned in holding disciplinary inquiry for the misconduct, if any, being committed by an employee in discharge of his duties even if retired from service during pendency of disciplinary proceedings after adopting the procedure prescribed under the relevant disciplinary rules. The competence of an authority to hold an enquiry or to continue enquiry against an employee who has retired from service depends upon the scheme of rules. The terms and conditions of service of the employee are the determining factors as to whether and in what manner the disciplinary enquiry can be held against an employee who stood retired or superannuated from service.

118. Union of India vs. Central Administrative Tribunal, Patna Bench, 2020(3) PLJR 881.

Departmental Proceeding/Enquiry - Prejudice doctrine

Non-observance of principles of natural justice vitiates the order only when real prejudice is caused to the complainant by such omission. There is no straitjacket formula to apply principles of natural justice and their applicability depends on the context and facts and circumstances of each case. Relevance, importance and significance of compliance of principles of natural justice.

119. Sona Devi (Mostt.) vs. State of Bihar, 2020(3) PLJR 64.

Departmental Proceedings - Confession

Confession of delinquent in the enquiry. Authorities not proceeding further with enquiry. Not bad in law. Conclusion of proceedings on the basis of enquiry and punishment of dismissal upheld.

120. Sudhir Chandra Sah vs. State of Bihar, 2020(2) PLJR 617.

Departmental Proceedings - Second enquiry/Recovery

Second enquiry on self-same charges as in first enquiry after the punishment imposed and effected. Not permissible. Instantly, when the

petitioner accepted punishment of reduction of pension by 5% for the misconduct, charge did not survive. Second order of recovery without jurisdiction and illegal.

121. Chandrika Prasad Singh vs. Bihar State Food and Civil Supplies Corporation, 2020(1) PLJR 724.

Departmental Proceedings - Time limit (Rule 26)

Bihar State Food and Civil Supplies Corporation Service (Conduct and Disciplinary) Rules Rule 26. After retirement, a departmental proceeding can be initiated in respect of an event which had taken place more than four years before initiation of such proceeding if the act of misconduct was not within the knowledge of the employer. Time of four years has to be reckoned from the date of knowledge of the event.

122. Daya Nand Mishra vs. State of Bihar, 2020(1) PLJR 360

Departmental Proceedings - Long absence

Charge of continued long absence from duty. Allegation not for misconduct or corruption which was required to be proved by establishing any evidence or document before the enquiry officer. Absence is admitted. Nothing to show that petitioner was an inpatient admitted for any major serious ailment requiring him to absent himself from duties for such a long period. Petitioner having absented himself from duties for such a long period and thereafter choosing not to participate or appear in the proceeding after due service of charge memo, cannot be permitted to raise the issue of infirmity of procedure adopted in the enquiry. It is axiomatic that when a delinquent chooses not to participate in the departmental enquiry in spite of several opportunities, it is a case of deemed waiver of natural justice.

123. Mohan Thakur vs. State of Bihar, 2019(4) PLJR 142.

Departmental Proceedings - Verification of certificates

Enquiry report is perfunctory as the same is based on no evidence and is also vague. Charges said to have proved merely on suspicion. Further,

petitioner's service was confirmed only after verification of his testimonials and he was paid his salary after the genuineness of the certificate were verified. Having already verified the testimonials/certificates of the petitioner long before his retirement, the authorities were precluded from re-examining the veracity of the certificates on a mere unsubstantiated complaint after his retirement. Entire disciplinary proceeding and also consequential order quashed.

124. Nirdula Jha vs. State of Bihar, 2019(4) PLJR 654.

Departmental Proceedings - No witnesses

No witnesses examined during the course of the departmental inquiry. Inquiry non est in the eye of law. Further, no systemic departmental inquiry was held and the procedural lacuna writ large from the records. No second show cause notice was ever issued before passing of impugned order of punishment and after submission of inquiry report. Impugned order quashed.

125. Anil Kumar Jha vs. State of Bihar, 2019(4) PLJR 258.

Departmental Proceedings - Illegal gratification

Punishment imposed only on the ground that there is a criminal case pending against the petitioner. Documents viz. the FIR, the trap memorandum and the facts leading to the launching of criminal case have not been proved. No attempt made by the disciplinary authority to come to any definite conclusion with respect to the demand of tainted money. Proof of demand of illegal gratification is a necessary pre-requisite to uphold the charge of demand of illegal gratification and mere recovery will not be sufficient for imposition of penalty of dismissal of the petitioner. No evidence led on the alleged demand of illegal gratification by the petitioner. Neither the complainant nor the I.O. examined in the disciplinary proceeding and order of dismissal is a non-speaking order as the impugned order does not at all refer to the explanation offered by the petitioner. Impugned order set aside - matter remitted to pass a fresh order.

126. Dillip Kumar Sharma vs. Bihar State Power (Holding) Company Limited, 2019(4) PLJR 203.

Departmental Proceedings - Second show cause

Non-consideration of response to the second show cause given by petitioner by disciplinary authority on the ground that he submitted it after 15 days from date of its issuance. Petitioner had submitted his response within 15 days from receipt of second show cause and prior to passing of order by disciplinary authority, it was to be considered by disciplinary authority. Disciplinary authority should not have declined to consider the response on such technical ground. Impugned orders quashed.

127. State of Bihar vs. Manoj Kumar Ranjan, 2019(3) PLJR 751.

Departmental Proceedings - Oral enquiry

Challenge to the order of Single Judge holding that enquiry proceeding was vitiated for want of evidence and oral enquiry. Oral enquiry or the production of the original documents or receipt was necessary to establish as to whether the appellant had actually received the amount before arriving at the conclusion of its misappropriation. Recommendation of the Lokayukta had to be examined in regular enquiry proceeding which was not done by leading appropriate evidence. In absence of any such evidence having been led or oral evidence having not been adduced, Single Judge rightly quashed the impugned orders.

128. Nawal Kishore Singh vs. State of Bihar, 2019(3) PLJR 1086

Departmental Proceedings - De novo enquiry

Challenge to direction for conducting de novo enquiry. Earlier inquiry report was based on no material and procedural formalities were also not complied with. Where the enquiry is found to be defective, the employer has a right to hold a fresh enquiry particularly in view of seriousness of charge and a disciplinary proceeding can be initiated from the stage where the infirmity in the proceedings creeps in. Instantly, charge against petitioner is very serious and infirmity had crept in the proceedings at the stage of enquiry, therefore,

a fresh/de novo enquiry only serves the interest of petitioner as also of the organisation. Disciplinary authority has not exceeded its jurisdiction in expanding the scope of the limited remand of appellate authority. Writ petition dismissed.

129. Meena Pratap vs. State of Bihar, 2019(2) PLJR 209.

Departmental Proceedings - Vigilance report

Departmental proceeding and articles of charges sought to be proved on the basis of vigilance report which is not a legal evidence. Findings and conclusion based upon said documents cannot be sustained.

130. Meena Pratap vs. State of Bihar, 2019(2) PLJR 209.

Departmental Proceedings - Evidence

Charges in a departmental proceeding has to be established on the basis of evidence produced before the Enquiry Officer. Charges cannot be presumed to be proved on the basis of inference drawn by the Enquiry Officer. Findings and conclusions must be supported by reasons. Suspicion can never take place of proof. Dismissal order set aside. Widow held entitled for full salary from the date of dismissal till the death of employee she also held entitled for death-cum-retiral benefits which became due to her after death of her husband.

Vague charges

Filing of defence statement controverting charges. Charges against the petitioner were vague and unspecific. In statement of fact nothing has been stated with respect to petitioner being associated with alleged irregularities in preparation of result by BPSC nor any role attributed to petitioner in respect of said irregularities. Difficult for the petitioner to file his defence statement controverting the charges.

Delegation of consideration

Reply of the delinquent against the charges has to be considered by the Disciplinary Authority and same cannot be delegated to the Enquiry Officer. Proceeding is vitiated from its inception.

131. Ashok Kumar Tripathi vs. State of Bihar, 2019(2) PLJR 9

Departmental Proceedings - Major punishment

Punishment of censure coupled with stoppage of three increments with cumulative effect, passed against the petitioner. Findings of the enquiry report not making out a case of imposition of punishment on petitioner and that also a major punishment. Impugned order quashed. Matter remanded to disciplinary authority for passing out a fresh order in accordance with law after taking into account the entire records of enquiry proceeding.

132. Rana Pratap Singh vs. State of Bihar, 2019(2) PLJR 235.

Departmental Proceedings - Removal without proceeding

Punishment of removal for submitting two certificates showing different dates of birth, one Madhyama certificate and another, matriculation certificate by Bihar Board. After a verification process with respect to the date of birth from Bihar Board, the petitioner was duly regularised and became member of regular establishment and could only be removed by service of charge memo or after due opportunity in a duly constituted departmental proceeding. Petitioner was removed merely by issuing show cause. Even if the charge is grave then also grave allegations are to be brought home in a duly constituted proceeding. Seriousness or gravity of the allegation cannot be made basis of dispensing with the procedural requirement of fairness. Impugned orders quashed - respondents granted liberty to proceed against the petitioner in accordance with law.

133. Amarendra Prasad vs. Bihar State Financial Corporation, 2019(2) PLJR 524.

Departmental Proceedings - Recording reasons

Disciplinary authority/administrative authority, is required to record reasons for its decision in a clear and explicit manner so as to indicate that the authority has given due consideration to the various issues involved. Need for recording of reasons is greater in case where the order is passed at the original stage.

134. Raj Kumar Raut vs. Punjab National Bank, 2019(1) PLJR 169.

Departmental Proceedings - Appellate Authority

Appellate authority affirmed the order of punishment without taking into consideration the plea taken by the petitioner raised in appeal. Appeal is continuation of trial and appellate authority is supposed to pass a reasoned order as reason is living link between the decision maker and decision. Failure to record a reason is violative of Article 14 of the Constitution of India. Same mistake committed by the reviewing authority who also without considering any of the explanation submitted by petitioner, passed a cryptic order. Impugned orders quashed and matter remanded back to appellate authority to pass a fresh order in accordance with law.

135. Sakaldeo Paswan vs. State of Bihar, 2019(1) PLJR 834.

Departmental Proceeding - No evidence

Neither the disciplinary authority nor the appellate authority applied their minds to the evidence available on record. There is no evidence with respect to the petitioner having accepted any bribe money for issuing LPC. There is no definiteness in the charges and the entire proceeding has been concluded only on the basis of the charges and the show cause reply. Complainant was never examined and in fact, the attempt of the petitioner to get him examined for the purpose of cross-examining him also proved abortive. Disciplinary proceeding before a domestic tribunal are of quasi-judicial character and, therefore, it is necessary that the authorities must arrive at the conclusions on the basis of some evidence which points towards the guilt of delinquent and are not supposed to act on mere surmises and conjectures. For sustaining the charges against a delinquent, definite

evidence has to be adduced and in the absence of the same, a person cannot be allowed to suffer the unqualified and unreasoned sentence. Impugned orders quashed matter remanded for fresh hearing.

136. Khushi Ram vs. Union of India, 2019(1) PLJR 28.

Departmental Proceedings - Defective charge

Charge against the petitioner that he was supposed to be alert on his duty but despite hearing the noise he neither raised any alarm nor reacted to the situation. Petitioner was not on duty and had retired in his guard quarter and was under sleep when the incident took place. Charge framed itself was defective and incorrect and alleged misconduct and charges are not borne out of the facts as stated by the department. Enquiry did not find charge as framed proved but held petitioner guilty as he did not give proper instruction and training to his subordinate guards. Inquiry officer travelled outside the scope and ambit of disciplinary proceeding and found petitioner partially guilty on the basis of materials available on the record. The charge as framed against the petitioner cannot be said to be proved as it is the case of no evidence against petitioner. Inquiry officer as well as disciplinary authority are subordinate to D.I.G. who was examined as witness and stated that petitioner is also guilty of charge. Inquiry officer had no option but to hold charges to be partially proved for allegation which were not part of the charge. Reply to the second show-cause was not considered by the disciplinary authority and found the charge to be fully proved. Ordinarily, High Court does not interfere in the order of punishment, particularly when same is related to disciplined force, but if it appears to the court that proceeding were conducted in a pre-determined manner and with bias and orders have been passed not on the basis of evidence on record but for extraneous reasons, then High Court will certainly interfere with such orders. Impugned order of compulsory retirement quashed. Direction to reinstate the petitioner in service with all consequential benefit.

137. Ram Lalit Prasad Singh vs. State of Bihar, 2019(1) PLJR 555.

Departmental Proceedings - Inefficiency/Suspicion

On the charge of inefficiency as an Investigating Officer of the police case and also his role as a police officer. S.P., while framing the charge relied upon oral and documentary evidence but the enquiry report submitted by D.S.P. mechanically upheld the charge without discussing the materials on which the opinion is based nor makes discussion on reasons to reject the stand taken by the petitioner. Non-speaking order of penalty passed by the S.P. which simply proceeds to reject the explanation given by the petitioner without assigning any reasons for such rejection. A disciplinary proceeding is a serious affair and requires a serious disposal which is missing in the present case. Instantly, the charge simply cast suspicion on the role of the petitioner as I.O. as also commenting on his inefficiency. It is by now well settled that neither an issue of inefficiency nor an allegation which is founded on suspicion can be a basis for a disciplinary proceeding unless it is accompanied with substantive proof to connect the delinquent to the charge which are missing in the present case. Impugned order quashed.

138. Ramesh Singh vs. State of Bihar, 2018(4) PLJR 837.

Departmental Proceedings - Charge of bribery

Allegationist gave her statement before enquiry officer in writing denying that she has given bribe to the petitioner. Even though the enquiry officer did not find the petitioner guilty of the charges, finding has been recorded that since during office hours, the petitioner had left the office premises at the instance of allegationist, the charges were partially proved. However, there is no such charge in the charge memo. Further, leaving the office premises, per se, could also by no stretch of imagination constitute a misconduct. Moreover, enquiry proceeded without appointing any presenting officer. Enquiry officer assumed the role of presenting officer which is wholly unfair and contrary to principles of natural justice.

139. State of Bihar vs. Ashwini Kumar, 2018(4) PLJR 660.

Departmental Proceedings - De novo enquiry liberty

Dismissal. Challenge to the order of Single Judge setting aside departmental proceeding including charge-sheet without giving liberty to the State/disciplinary authority to proceed further with departmental proceeding in accordance with the law. Charges against the delinquent petitioner were very serious in nature if fresh enquiry would have been directed, no prejudice shall be caused to delinquent as ample opportunity will be given to him to prove his innocence in fresh departmental inquiry. Order of Single Judge modified to the extent to reserve liberty in favour of the State to hold a fresh de novo enquiry in accordance with law and the rules on same charges.

140. Pratima Singh (Smt.) vs. State of Bihar, 2018(4) PLJR 411.

Departmental Proceedings - Audit report only

Petitioner was inflicted punishment of forfeiture of 90% of her pension with a recovery of amount by certificate proceeding invoking the provisions of PDR Act. Charge entirely rests on the audit report submitted almost 5 years back when the proceeding was initiated. Entire responsibility for such failure lies on the shoulder of the authorities responsible for the delay in initiation of such proceedings. No evidence has been relied upon in the charge memo except the audit report. Enquiry report confirms that no evidence was led during the enquiry which was exclusively resting on the audit objection. Callous discharge of powers by the State while passing order in disciplinary matters by merely taking note of the allegations, without bothering to meet the objections raised by the delinquent. Petitioner's exhaustive reply to the second show cause as also the earlier explanation was not considered. Impugned order quashed.

141. Rajendra Prasad Shah vs. State of Bihar, 2018(3) PLJR 939.

Departmental Proceedings - Perverse report

Allegation that petitioner permitted the promoter to defraud the Corporation causing loss to it. Charge framed by the department against the petitioner was regarding submission of pre-sanction site inspection report of the

industry pertaining to plot no. 1083 instead of 1235, but the enquiry officer has found the petitioner guilty of the charge of construction of the said factory on a plot not mortgaged to the Corporation. Enquiry report is perverse and has been submitted without any application of mind. Further, the enquiry report is based on no evidence. No sufficient opportunity to the petitioner to present his defense as well as not furnishing of the relevant documents to the petitioner. Moreover, the said industry has paid the entire settlement amount under OTS Scheme, hence, no loss has been caused to the Corporation. Enquiry report quashed. Punishment order which is solely based on the perverse enquiry report cannot be sustained and set aside.

142. Niranjana Kumar Ghosh vs. State of Bihar, 2018(3) PLJR 547.
Departmental Proceedings - Assistant forwarding file

Memo of charge alleges the petitioner of entering into a conspiracy in recommending grant of permanent affiliation to a college in light of the inspection report submitted by District Magistrate. Petitioner holding the post of Assistant had no choice but to simply forward the report submitted by D.M. to the superior authorities for taking appropriate decision. Charge memo does not refer to a single evidence to support the charge of conspiracy and is too vague to invite any proceeding. Petitioner as an Assistant did not enjoy the status of commenting, either in favour or in opposition of D.M.'s report and thus had no option but to forward the same to superior authorities for their decision. In fact after the Inquiry Officer had exonerated the petitioner of the charge on examination of material available, there was nothing further to be done and ought to be dropped. Disagreement note is on a non-existent issue to uphold the charge. Proceeding on such vague charge and even more vague disagreement note, the order of penalty is a perversity because it discusses no material to uphold the charge of conspiracy against the petitioner. Impugned punishment quashed.

143. Bihar State Cooperative Marketing Union Limited vs. Surendra Kumar, 2018(3) PLJR 545.
Departmental Proceedings - Clubbing enquiries

Two enquiries were held - one in relation to the charge of discrepancy in stocks and other charge related to enquiry with regard to non-filing of money suit against Railways. Responsibility of filing the money claim for shortages was imposed on the Depot Manager at the relevant time. Holding private respondent guilty by the Enquiry Officer seems to be not only an error but also irrational. Two enquiry reports were clubbed together and a common order of punishment came to be imposed upon the private respondent. Punishment should have come to visit on the basis of finding emerging from two departmental enquiries, but merging two departmental enquiries and ordering a common punishment is unacceptable position, especially when so far as second enquiry was concerned, it was unwarranted and private respondent had already offered to refund money of losses. No interference in the order of Single Judge.

144. Bai Mukund Prasad Singh vs. Punjab National Bank, 2018(3) PLJR 677.

Disciplinary Proceedings - Interference by Court

Scope of- unless a delinquent is able to demonstrate that he was denied reasonable opportunity to defend himself and/or the orders impugned reflects perversity and/or punishment imposed appears excessive to shock the conscience of the Court, there can be no interference with either the process adopted or the orders passed thereon simply on a possible second opinion.

145. Union of India vs. Ram Lakhan Sharma, 2018(3) PLJR (SC)319.

Disciplinary Proceedings - Role of Inquiry Officer and Presenting Officer

Inquiry Officer shall not act as a Presenting Officer. Question as to whether Inquiry Officer who is supposed to act independently in an inquiry has acted as prosecutor or not is a question of fact which has to be decided on the facts and proceedings of particular case. Inquiry Officer who has to be independent and not representative of the disciplinary authority if starts

acting in any other capacity and proceed to act in a manner as if he is interested in eliciting evidence to punish an employee, the principle of bias comes into place. There is no requirement of appointment of Presenting Officer in each and every case, whether statutory rules enable the authorities to make an appointment or are silent. Non-appointment of a Presenting Officer, by itself will not vitiate the inquiry. In the absence of a Presenting Officer, if the Inquiry Officer puts any questions to the prosecution witnesses to elicit the facts, he should thereafter permit the delinquent employee to cross-examine such witnesses on those clarifications. If the Inquiry Officer conducts a regular examination-in-chief by leading the prosecution witnesses through the prosecution case, or puts leading questions to the departmental witnesses pregnant with answers, or cross-examines the defence witnesses or puts suggestive questions to establish the prosecution case, the Inquiry Officer acts as prosecutor thereby vitiating the inquiry. As absence of a Presenting Officer by itself will not vitiate the inquiry and it is recognised that the Inquiry Officer can put questions to any or all witnesses to elicit the truth, the question whether an Inquiry Officer acted as a Presenting Officer, will have to be decided with reference to the manner in which the evidence is let in and recorded in the inquiry.

146. Sanjay Kumar Srivastava vs. Punjab National Bank 2018(3) PLJR 846.

Departmental Proceedings - Perverse report

No material in inquiry report conclusively pointing the guilt of petitioner. Instant is a case of no evidence. Further, even the disciplinary authority had opined that Inquiry Officer appears to be biased to some extent. Therefore, inquiry report is perverse and order of punishment of removal based on it, is not tenable in the eyes of law. Disciplinary authority while passing the order of punishment has been influenced by other consideration. Impugned orders quashed.

147. Bihar State Food & Civil Supplies Corporation Limited vs. Jageshwar Choudhary, 2018(3) PLJR 32.

Departmental Proceedings - Sham enquiry

No witnesses examined during the enquiry. Further, no presenting officer was appointed to prove the charge. A sham of an enquiry is no enquiry in the eye of law especially when the ultimate punishment of dismissal was passed against the employee. Mere appointment of a Presenting Officer may not satisfy the requirement if the record do not indicate whether the Presenting Officer participated in the proceeding. Writ court rightly set aside the order of punishment.

148. Tulsi Narayan Paswan vs. Managing Director, Bihar State Food & Civil Supplies Corporation Ltd., 2018(3) PLJR 19.

Departmental Proceedings - IO as Presenting Officer

No Presenting Officer was appointed and Enquiry Officer had assumed the role of Presenting Officer. Petitioner was not provided with the opportunity to cross-examine the witnesses. All these infirmities were raised by the petitioner in his reply to the second show cause. Disciplinary authority by a very cryptic and non-speaking order, proceeded to inflict the petitioner the punishment of dismissal from service. Further, petitioner has been held liable by adding two charges for which no charges were framed. Disciplinary authority passed the impugned order by assigning the reason that petitioner has failed to establish his innocence. Such order prima facie is unsustainable as it is for the department to bring home the charges and onus cannot be shifted to the delinquent. Impugned order quashed - authorities to proceed from the stage of second show cause and conclude the proceedings.

149. State of Bihar vs. Dr. Nand Kishore Nawal, 2018(3) PLJR 317.

Departmental Proceedings - Stale charge

On charges of omission and commission relating to the year 1990-1992, a departmental proceeding was initiated only in the year 2005 and on the

basis of finding of enquiry officer, an order of dismissal was passed. Extraordinary delay on a stale charge amounts to unfairness and delay causes prejudice to charged officer and violates principles of natural justice. Moreover, no evidence had been led during the course of enquiry to prove the charges. Disciplinary proceedings conducted without following any of the process or procedure laid down in Rules. Writ court rightly quashed the departmental proceeding.

150. Rajendra Ram vs. State of Bihar, 2018(2) PLJR 10.

Departmental Proceedings - Reasons for punishment

In case of affirmance with the enquiry report, there is no requirement for assigning detailed reason for passing punishment order however, disciplinary authority is required to succinctly indicate the reasons for imposing punishment. Further, while differing with enquiry report, specific reason is required to be assigned by disciplinary authority.

151. Dharendra Prasad Sah vs. State of Bihar, 2018(2) PLJR 326.

Departmental Proceedings - Perfunctory procedure

Major penalty imposed. It is presupposed that it requires a full-fledged inquiry and it must reflect that the charges have been proved by cogent evidence instantly, no such proper enquiry has been followed rather procedure has been followed in perfunctory manner, after issuance of the show cause, the order has been passed. Impugned order also suffers from arbitrary exercise of power as it does not disclose reason for rejecting the application of the petitioner. Impugned orders quashed and matter remanded to respondent who will take action in accordance with law.

152. Aman Kumar vs. Chairman, Uttar Bihar Gramin Bank, 2018(1)

PLJR 95.

Charge memo defects

Charge memo, contents of alleged misconduct. Disciplinary proceedings - removal from service. Charge memo and imputation of misconduct in

support thereof available - but no reference therein of any evidence, oral or documentary, to be relied upon for establishing the charges. Charge memo, apparently, defective in absence of reference of any evidence to be utilized in establishing the charges. It is not the seriousness of allegations which decides the course of disciplinary proceedings. Requirement is of some definite evidence to connect the delinquent with the allegations. Conclusion of the Enquiry Officer based on conjectures and surmises. Entire proceedings including the punishment quashed.

Rama Shankar Chaudhary vs. State of Bihar, 2018(1) PLJR 91-- -
Departmental Proceedings - Mandatory obligations (Rule 11)

Mandatory obligations of a Disciplinary Authority. Departmental proceedings ending in dismissal of delinquent employee. Appeal and memorial rejected. Although Disciplinary Authority framing charge, neither any explanation from delinquent called for nor any satisfaction for proceeding with enquiry expressed. Neither any Presenting Officer appointed nor any oral or documentary evidence adduced by Department. Punishment order resting on opinion expressed by Superior Authorities in supervision note. Mandatory obligations cast on the Disciplinary Authority in terms of Rule 11 of Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 not having been followed, the entire proceedings as also the follow-up action stand vitiated being illegal - set aside.

153. Miran Prasad Yadav vs. State of Bihar, 2023(2) PLJR 436.

Punishment - Perfunctory enquiry

Enquiry was conducted on a single day. Presenting officer was not present during enquiry either to produce oral or documentary evidence and/or to prove the charges by examining the witnesses and enquiry officer assumed this duty upon himself by collecting documents for upholding the charges without handing over copy of those documents to the delinquent. The duty of the enquiry officer is to examine the evidence presented by the department and he is not the agent of the disciplinary authority, he is a

quasi-judicial authority and is in the role of independent adjudicator. The enquiry was conducted absolutely in a perfunctory manner. Enquiry report was submitted by the enquiry officer based on his ipse dixit holding the charges as proved during enquiry no oral enquiry was conducted, no oral evidence and documents proved, enquiry itself has vitiated the enquiry officer failed to discharge his duty as an independent adjudicator. At the stage of enquiry, the delinquent is entitled to be given a reasonable opportunity to cross-examine the witnesses who are produced to prove the charges and also has the right to adduce the evidence by producing his witness. Punishment order as well as enquiry report quashed. Petitioner held entitled to all consequential and monetary benefits.

154. Vijay Kumar Mathur vs. South Bihar Power Distribution Company Ltd., 2023(2) PLJR 668.
Punishment - Unreasoned appellate order

Appellate order does not contain either any consideration of the grounds raised by petitioner nor to the submissions of petitioner and appellate order is a totally unreasoned and non-speaking order. While the disciplinary authority completely abdicated his/her power and discharged his/her responsibility of the disciplinary authority by simply putting a short signature below the notes suggesting the kind of punishment to be imposed against petitioner, appellate authority has not at all considered the appeal of petitioner. Impugned orders set aside. Matter remitted to the Managing Director, SBPDCL for a fresh consideration and passing of an appropriate order.

155. Rohan Ranjan Hargave vs. State of Bihar, 2023(2) PLJR 807.
Punishment - Unreasoned order

Disciplinary authority has found the reply to the show-cause filed by petitioner unsatisfactory, but no reason assigned as to why the reply was unsatisfactory. No reason disclosed while inflicting punishment. It is mandatory for disciplinary authority to deal with the explanation filed by the

delinquent. Order and enquiry report quashed with all consequential benefits.

156. Gauri Shankar Mishra vs. State of Bihar, 2023(1) PLJR 817.

Punishment - Second show cause (Major punishment)

Petitioner was neither served a copy of the enquiry report nor given opportunity of hearing by issuing second show cause to him before awarding major punishment of withholding two increments with cumulative effect. Petitioner was exonerated in the enquiry and without giving him notice of disagreement and second show cause, the disciplinary authority passed the impugned order of punishment differing with the enquiry report. Impugned order set aside - matter remitted to disciplinary authority to pass a fresh order after issuing the petitioner second show cause.

157. Jeneshwar Sinha vs. State of Bihar, 2022(1) PLJR 169.

Punishment/Recovery - Cryptic order

Petitioner retired during suspension and pending departmental proceedings. Authorities passed a cryptic order stating that "after consideration of the show cause of the petitioner, same was rejected and in the light of the order dated 14.3.2005, the recovery of the mentioned amount was to be made". Impugned order not disclosing the defence of petitioner or reason for non-acceptance of the same. Disciplinary authority not assigned any reason for awarding the punishment against petitioner. Impugned order quashed. Authorities directed to make payment of entire retiral dues including entire salary for the period of suspension and refund any recovery made.

158. Sanjay Kumar Gwalia vs. State of Bihar, 2021(2) PLJR 266.

Punishment - Standard of proof/Contempt

Stoppage of four increments with cumulative effect. Plea that charges levelled against petitioner was not proved beyond all reasonable doubts, hence the punishment is unsustainable. Proceeding against petitioner drawn on specific direction of Apex Court in SLP 5249 of 2014. In

departmental proceeding, standard of proof is preponderance of probability and not beyond all reasonable doubts. In contempt proceeding the Court is required to see whether there is deliberate and wilful disobedience of the direction of the Court. Matter involving defiance of direction issued by Apex Court should not be taken leniently, irrespective of the fact that contempt proceeding was dropped extending the benefit of doubt. Observation of the Apex Court is indicative of the fact that the Court has not fully exonerated the petitioner. However, there are procedural irregularity in conduct of departmental proceeding, particularly after stage of second show-cause notice as respondents have not objectively considered the reply to second show-cause notice in proper perspective and, therefore, decision to inflict punishment cannot sustain. Order quashed - matter remitted back to disciplinary authority, who give fresh second show-cause notice and after opportunity of hearing to petitioner pass appropriate order on quantum of punishment.

159. Union of India vs. Narayan Prasad Rai, 2020(1) PLJR 410.

Punishment - Wednesbury test

Two charges out of three charges proved in disciplinary enquiry. Punishment must fit the crime in disciplinary proceeding while imposing the punishment, it is important that disciplinary authorities do not overlook the importance of the principle of proportionality. It is not the case that punishment imposed is illegal or vitiated by procedural impropriety. No finding by Tribunal that decision is one which no sensible person who weighed the pros and cons could have arrived at or that punishment is outrageous defiance of logic, thus, Wednesbury tests are not satisfied. Impugned order of Tribunal which set aside punishment, set aside.

160. Vikramaditya Singh vs. State of Bihar, 2020(1) PLJR 95.

Punishment - Misappropriation/No evidence led

Plea that in departmental proceeding, presenting officer never made himself available during the enquiry and the department not leading any evidence to

prove the charges however, on analyzing the entire material on record the enquiry officer found that the petitioner was responsible for misappropriation/irregularity indirectly. For proving charge, it is not necessary that any evidence be compulsorily led. If the materials are available which could be the basis of coming to a definite conclusion, then merely because witnesses were not examined, the entire enquiry report could not be thrown out as being bad in facts and law. A departmental proceeding is a quasi judicial function in which provisions of Evidence Act are not applicable on preponderance of probability, the enquiry officer has found the petitioner to be responsible for the misappropriation, which opinion finds echo in the orders impugned. Misappropriation of public money is a grave misconduct, even the quantum of punishment cannot be said to be strikingly disproportionate on any score.

161. Sikandar Jha vs. State of Bihar, 2019(4) PLJR 769.

Punishment - IO as PO/Bias

No evidence produced before enquiry officer. Presenting officer never appeared in proceeding. By performing the duties and discharging role of presenting officer, the enquiry officer has given rise of a reasonable likelihood of bias. Proceeding conducted in violation of Rule 17(14) of Bihar CCA Rules, 2005. Punishment quashed.

162. Sheomuni Prasad vs. State of Bihar, 2018(3) PLJR 458.

Punishment - Witnesses in absence

Witnesses were examined in absence of petitioner by inquiry officer. Witnesses proved the documents as exhibits. Witnesses are not competent to prove the content of the documents as it could only be proved by author/writer of said documents in presence of delinquent. Inquiry officer is supposed to be independent adjudicator and is not a representative of department or disciplinary authority and as such he could not have proved the documentary evidence on behalf of department. Enquiry report was also

not served on petitioner. Thus, there are procedural infirmity and irregularity in holding inquiry proceeding. Impugned orders set aside.

163. Arun Kumar vs. Union of India, 2018(1) PLJR 903.

Punishment - Incompetent authority/Re-issue

Despite the Enquiry Officer not finding the petitioner guilty, as some of the charges were not proved, the Disciplinary Authority awarded the punishment. Plea that initial punishment order was passed by the Disciplinary Authority, who was lower in rank than petitioner and not competent to pass the punishment order, therefore, it was withdrawn and later same punishment order was passed imposing the same punishment without any application of mind. Authorities held a detailed enquiry with witnesses to prove the case, but failed to do so. Crux of the allegation was not proved during course of enquiry, thus, the entire disciplinary proceeding crumbles. Impugned order of Tribunal set aside and punishment order, appellate order and revisional order quashed.