

(2026) 08 PAT CK 2539

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No.969 of 2022

Nirmala Kumari

APPELLANT

Vs

The State Of Bihar & Ors.

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Bihar Government Servants (Classification, Control & Appeal) Rules, 2005-Rule-14, Rule 19, sub — Rule (3) of Rule 18, 14, sub-rules (3) to (23) of Rule 17, 17(3) to 17(23), 18

Citation : (2026) 08 PAT CK 2539

Hon'ble Judges : Dr. Anshuman, J

Bench : Single Bench

Advocate : Mr. Satya Prakash Parasar, Adv., Ms. Surya Nilambari, Adv., Mr. Lalit Kishore (AG)

Final Decision : Allowed

Judgement

Date : 03-08-2026 Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for the following relief/s:-

"I. For issuance of writ in the nature of certiorari for quashing the order as contained in Memo No. 3621 dated 8.6.2021 passed by the Special Secretary of His Excellency Governor of Bihar, Patna whereby and where under the petitioner has been awarded for punishment of sensor as well as stoppage of two increment of pay without cumulative effect under Rule-14 of the Bihar C.C.A. Rules, 2005.

II. For further quashing the order as contained in Memo No. 8185 dated 21.10.2021 whereby and where under the memorial preferred by the petitioner has been also dismissed and grant all consequential benefits.

III. For further direction to the Respondents authority not to harass the petitioner out of a personal vendetta as in the present case the petitioner subjected to departmental proceeding without any allegations of foundational fact of misconduct.

IV. And for any other reliefs for which this Hon'ble Court may deem fit and proper."

3. Learned counsel for the petitioner submits that the order passed by the Disciplinary Authority is minor punishment in nature, but there is a law very clear on this issue that once the decision of the authority to proceed with the procedure laid down with the major penalty then the procedure has to be followed completely in accordance with law, even though the punishment is minor. Counsel further submits that the Revisional Authority has also not considered this aspect of the matter. Special emphasis has put by the counsel for the petitioner that in the punishment order, reply to the second show cause has been filed in which series of points were made, but none of the points have been considered by the Disciplinary Authority and without considering the point raised in the reply to the second show cause, final order has been passed. It is due to this reason, counsel submits that the disciplinary order as well as the revision order, both be set aside.

4. Learned counsel for the State, on the other hand, submits that the punishment order is minor in nature, as the punishment imposed upon the petitioner is 'censor as well as stoppage of two increments of pay without cumulative effect'. He submits that for the purpose of imposing minor punishment, there is no need to follow the strict procedure of law. He further submits that here in the present case, neither there is any procedural lapse/irregularity, nor violation of principles of natural justice nor the punishment is exorbitant. Counsel submits that during enquiry proceeding, cross examination of the witnesses has been taken and it has nowhere denied that such event has not taken place. Therefore, he submits that there is no need of any interference in this matter and the orders passed by the Disciplinary Authority and the Revisional Authority, both be sustained and this writ petition be dismissed.

5. In the light of submissions made by the parties, it is necessary to quote Rule 19 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'Bihar CCA Rules, 2005'), which states as follows:-

"19. Procedure for imposing minor penalties-

(1) Subject to the provisions of sub-rule (3) of Rule 18, no order imposing on a Government Servant any of the penalties specified in clauses (i) to (v) of Rule 14 shall be made except after-

(a) informing the Government Servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in sub-rules (3) to (23) of Rule 17, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any, submitted by the Government Servant under clause (a) and the record of inquiry, if any, held under clause (b) into consideration;

(d) recording a finding on each imputation of misconduct or misbehaviour; and

(e) consulting the Commission where such consultation is necessary.

(2) The record of the proceedings in such cases shall include-

(i) a copy of the intimation to the Government Servant of the proposal to take action against him;

(ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him;

(iii) his representation if any;

(iv) the evidence produced during the inquiry;

(v) the advice of the Commission, if any;

(vi) the findings of each imputation of misconduct or misbehaviour; and

(vii) the orders on the case together with the reasons therefor."

6. Upon perusal of Rule 19 of the Bihar CCA Rules, 2005, it is categorically laid down that for the purpose of imposing minor punishment, there is no need of even issuance of charge memo. But, it is also there that in case authority decides to continue the proceeding as like that of major penalty proceeding as laid down under Rule 17(3) to 17(23) of the Bihar CCA Rules, 2005 then it has to be followed strictly.

7. In the light of specific rule, this court agrees on the contention made by learned counsel for the petitioner that since charge memo has been issued and the disciplinary enquiry has been conducted before the Enquiry Officer then in that case the strict compliance of the rule as laid down under rule 17(3) to 17(23) of the Bihar CCA Rules, 2005 has to be followed.

8. Rule 18 of the Bihar CCA Rules, 2005 is very much clear in which after completion of enquiry the second show cause has to be issued. This Court finds that on second show cause, the points raised by the delinquent/petitioner has not been properly considered in the final order passed by the Disciplinary Authority, and only one line observation has been made which is not proper from a Quasi Judicial Authority and this Court finds that it is gross violation of rule.

9. Hence, it is only due to the aforesaid reason, the order passed by the Disciplinary Authority dated 08.06.2021 contained in Memo No. 3621 and the order passed by the Revisional Authority dated 21.10.2021 contained in Memo No. 8185, both are hereby set aside.

10. The Matter is remanded back to the Disciplinary Authority to take decision afresh considering the points mentioned in the reply to the second show cause filed by the petitioner, within 90 days from the date of production of this order.

11. Accordingly, with the aforesaid observation, the present writ petition stands allowed.