

---

**(2006) 07 PAT CK 0063**  
**In the Patna High Court**  
**Case No : CWJC No. 9993 of 2004**

Punya Deo Mahto

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

---

**Date of Decision :** 25-07-2006

**Acts Referred:**

**Citation :** (2006) 4 PLJR 396

**Hon'ble Judges :** V.N. Sinha, J

**Bench :** Single Bench

**Advocate :** S.C.P. Sinha, Ratan Kumar Sinha and Madhukar Panday, for the Appellant; Shivjee Prasad, for the Respondent

---

## Judgement

1. Heard Sri Suresh Chandra Prasad Sinha, learned counsel for the petitioner and Sri Shivji Prasad, G.P. 2 for the State of Bihar. Petitioner who at the relevant time was Junior Engineer in the Drainage Investigation Division, Bettiah has filed this writ petition assailing the order bearing Memo No. 4967 dated 17.10.2002, Annexure-4, where under punishments have been imposed on him after conclusion of the departmental proceedings initiated vide resolution of the State Government bearing Memo No. 3230 dated 6.6.2000, Annexure-2. He further assails the order dated 12.6.2004, Annexure-6, where under his appeal has been rejected.

2. The ground of challenge raised against the aforesaid two orders is that during the pendency of the proceedings the memo of charge itself was never served on the petitioner and that is how he was seriously prejudiced in filing his written defence dated 23.3.2002, Annexure-3. The Enquiry Officer without ensuring service of the charge-sheet proceeded to submit his report and the State Government having considered the same without even serving the Enquiry Report passed the impugned punishment order bearing Memo No. 4967 dated 17.10.2002, Annexure-4 which order was directly assailed before this Court in C.W.J.C. No. 6016 of 2003 which was disposed of under orders dated 2.12.2003, Annexure-5 directing the petitioner to seek the remedy of appeal. Petitioner

accordingly filed appeal which was also rejected under orders dated 12.6.2004, Annexure-6 without giving any reasons. The writ petition has been filed assailing both the original and the appellate orders. In paragraph 16 of the writ petition it has been categorically stated that the memo of charge was not served on the petitioner along with the resolution of the State Government initiating the departmental proceeding under Rule 55 of the Civil Services (Classification, Control and Appeal) Rules, 1930 which fact is evident from bare perusal of the said resolution dated 6.6.2000, Annexure-2 as it no where states that the memo of charge along with the evidence was ever served on the petitioner.

3. As the charge-sheet itself was not served on the petitioner, in my opinion, the petitioner was seriously prejudiced in filing his written defence as without perusing the memo of charge it is well nigh impossible for anyone to file his written defence.

4. In the circumstances, the original order bearing Memo No. 4967 dated 17.10.2002, Annexure-4 and the appellate order dated 12.6.2004, Annexure-6 are quashed and the matter is remitted back to the Enquiry Officer with direction to him to serve memo of charge on the petitioner within three weeks from the date of receipt/ production of a copy of this order before him and thereafter grant another three weeks" time to the petitioner to file his written defence and thereafter he should proceed with the enquiry and conclude the same as early as possible in any case within six weeks from the date of receipt of a copy of this order. It is made clear that the proceedings which were initiated prior to the retirement of the petitioner shall now proceed in terms of Rule 43(b) of the Bihar Pension Rules without any specific order to that effect being passed by the authorities. This application is disposed of. No cost.