

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6742 of 2019

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Bachchu Prasad Singh Son of Late Lakhmi Mandal Resident of
Village/Mohalla-Akhatwara, P.O.-Bhataura, P.S.-Hathauri, District-Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal Husbandry and Fisheries Resources Department, Govt. of Bihar, Patna.
2. Principal Secretary, Animal Husbandry and Fisheries Resources Department, Govt. of Bihar, Patna.
3. Director, Dairy Development Directorate under Animal Husbandry and Fisheries Resources Department, Govt. of Bihar, Patna.
4. Dairy Research Officer, Bihar, Patna.
5. Deputy Director, Head Office cum Inquiry Officer, Dairy Development Directorate, Bihar, Patna.

... .. Respondent/s

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Appearance:

For the Petitioner/s	:	Mr. Manu Tripurari Mr. Apurv Harsh Mr. Raghu Raj Pratap Ms. Jaya Singh Ms. Tanu Priya
For the Respondent/s	:	Mr. Birendra Prasad Singh (AC to SC-19)

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CORAM: HONOURABLE MR. JUSTICE KUMAR MANISH
CAV JUDGMENT

Date : 18-08-2026

1. Heard learned counsel for the petitioner and learned counsel appearing on behalf of the State respondents.
2. The present writ application has been filed by the petitioner seeking interalia for the relief of quashing of the punishment order dated 20.01.2017, whereby and whereunder, two increments with cumulative effect of the Petitioner were withheld and the punishment was entered in his service record (Annexure – 7 to the writ petition). The punishment had been imposed upon him in connection with the theft of departmental vehicle bearing Registration No. BR01PA-2353. The Petitioner in the instant case has also assailed the appellate order dated



30/07/2018 which has been passed vide Memo No. 50, whereby and whereunder the earlier punishment imposed vide order dated 20.01.2017, was reduced to withholding of one increment with cumulative effect (Annexure – 9 to the writ petition).

3. Learned counsel for the Petitioner submits that he was appointed as a Driver on 19.09.1989, and was thereafter posted in the Dairy Development Department. At the relevant time, he was attached with the Dairy Research Officer, Bihar, Patna and was driving departmental vehicle bearing Registration No. BR-01PA-2353.

4. According to the petitioner, he took the official vehicle to Muzaffarpur on 25.06.2016, according to the direction given by his superior officer i.e. the Dairy Research Officer, who was required to attend the marriage of his son. The official vehicle was parked at the place indicated as by the officer. On 28.06.2016, the official vehicle was found stolen and an FIR was lodged on 29.06.2016 (Annexure -1 to this writ petition).

5. Thereafter, the petitioner was placed under suspension vide order number 22 dated 04.07.2016 (Annexure -3 to this writ petition). It is further submitted that the police investigation subsequently, culminated in submission of final form bearing Final Form No. 835/2016 dated 30.11.2016 (Annexure -2 to this writ petition). The FIR, final form and suspension order have been brought on record as Annexures- 1, 2 and 3 to the writ petition respectively.



6. Thereafter, a departmental proceeding was initiated against the petitioner. A show cause notice was issued and an enquiry was conducted by the Enquiry Officer. It is the submission of the Petitioner that the enquiry report did not establish any specific act of negligence on his part. However, by order dated 20.01.2017 (Annexure-7 to this writ petition), the disciplinary authority imposed the punishment of withholding two increments with cumulative effect. Aggrieved by the aforesaid order, the petitioner preferred an appeal and consequently, the appellate authority vide order dated 30-07-2018 (Annexure-9 to this writ petition), modified the punishment order dated 20.01.2017, by reducing it to withholding of one increment with cumulative effect. The petitioner thereafter, has approached this Hon'ble Court, assailing the punishment orders on the ground that the same had been passed materials which are untenable and are not legally sustainable, and that the finding of negligence was contrary to the materials available on record.

7. *Per contra*, the Learned State Counsel for the State submits that the petitioner was entrusted with the departmental vehicle and that the vehicle was stolen while it was in his custody. It is contended that the petitioner was responsible for the vehicle and his conduct amounted to negligence. It is further submitted that the appellate authority had already considered the grievance of the Petitioner and reduced the punishment from withholding of two increments to withholding of one increment with cumulative effect.



The respondents have also relied upon the settled principle that this Court, while exercising jurisdiction under Article 226 of the Constitution, does not ordinarily act as an appellate authority over departmental findings or re-appreciate evidence merely because another view is possible.

8. Learned counsel for the petitioner, on the other hand, submits that the petitioner had been serving as a driver since 19.09.1989, and had an unblemished service record for nearly 27 years. It is submitted that the vehicle was taken to Muzaffarpur pursuant to the direction of the superior officer and not for any personal purpose of the petitioner. The vehicle was stolen and the petitioner himself lodged the FIR, immediately thereafter, and the police investigation culminated in submission of final form.

9. It is submitted on behalf of the petitioner that there is no specific evidence showing as to what particular negligent act was committed by the petitioner and that mere theft of the departmental vehicle cannot automatically establish misconduct or negligence. It has further been submitted on behalf of the petitioner, in the rejoinder that, he had specifically stated that he parked the vehicle at the place indicated by the superior officer and went to sleep only on the direction of the said officer.

10. The petitioner has also brought on record a subsequent development concerning the Dairy Research Officer, Anmol Kumar, who happens to be the superior officer upon whose direction the Petitioner was acting. It is stated that the department had also proceeded against him in disciplinary



proceedings in connection with the same alleged incident / cause of action. According to the petitioner, the departmental proceeding against the said officer was dropped and the senior officer was exonerated by order dated 12.08.2019, which has been brought on record as Annexure-10 to the writ application. It is therefore, contended that maintaining punishment against the petitioner, despite the subsequent dropping of proceedings against the superior officer in respect of the same occurrence / cause of action, is arbitrary and discriminatory.

11. Having heard learned counsel for the parties and having perused the materials on record, the primary question for determination is whether the finding of negligence recorded against the petitioner is supported by legally sustainable material and whether the impugned orders suffer from perversity, non-application of mind or arbitrariness warranting interference under Article 226 of the Constitution.

12. There can be no dispute with the proposition that this Court, exercising jurisdiction under Article 226 of the Constitution, does not ordinarily sit as an appellate authority over a departmental enquiry. The principle was well articulated in **Kuldeep Singh v. Commissioner of Police, (1999) 2 SCC 10** wherein it was categorically laid down:

“6. It is no doubt that the High Court under Article 226 or this Court under Article 32 would not interfere with the findings recorded at the departmental enquiry by the disciplinary authority



or the enquiry officer as a matter of course. The Court cannot sit in appeal over those findings and assume the role of the appellate authority. But this does not mean that in no circumstance can the Court interfere. The power of judicial review available to the High Court as also to this Court under the Constitution takes in its stride the domestic enquiry as well and it can interfere with the conclusions reached therein if there was no evidence to support the findings or the findings recorded were such as could not have been reached by an ordinary prudent man or the findings were perverse or made at the dictates of the superior authority.

*7. In **Nand Kishore Prasad v. State of Bihar(1978) 3 SCC 366** it was held that the disciplinary proceedings before a domestic tribunal are of quasi-judicial character and, therefore, it is necessary that the Tribunal should arrive at its conclusions on the basis of some evidence, that is to say, such evidence which and that too, with some degree of definiteness, points to the guilt of the delinquent and does not leave the matter in a suspicious state as mere suspicion cannot take the place of proof even in domestic enquiries. If, therefore, there is no evidence to sustain the charges framed against the delinquent, he cannot be held to be guilty as in that event, the findings recorded by the enquiry officer would be perverse.*



8. *The findings recorded in a domestic enquiry can be characterized as perverse if it is shown that such findings are not supported by any evidence on record or are not based on the evidence adduced by the parties or no reasonable person could have come to those findings on the basis of that evidence. This principle was laid down by this Court in **State of A.P. v. Rama Rao (1964) 2 LLJ150** in which the question was whether the High Court under Article 226 could interfere with the findings recorded at the departmental enquiry. This decision was followed in **Central Bank of India Ltd. v. Prakash Chand Jain (1969) 2 LLJ 377** and **Bharat Iron Works v. Bhagubhai Balubhai Patel (1976)1 SCC 518**. In **Rajinder Kumar Kindra v. Delhi Admn. (1984) 4 SCC 635** it was laid down that where the findings of misconduct are based on no legal evidence and the conclusion is one to which no reasonable man could come, the findings can be rejected as perverse. It was also laid down that where a quasi-judicial tribunal records that findings based on no legal evidence or such as no reasonable person could reach are liable to be interfered with as perverse.*

10. *A broad distinction has, therefore, to be maintained between the decisions which are perverse and those which are not. If a decision is arrived at on no evidence or evidence which is*



thoroughly unreliable and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, howsoever compendious it may be, the conclusions would not be treated as perverse and the findings would not be interfered with.”

13. In view of the aforesaid judicial precedent, this Court is of the view that if a decision is arrived in a departmental proceeding, is based on no evidence or evidence which is thoroughly unreliable and no reasonable person would act upon it, such order shall be treated to be perverse. Such order which are prima facie perverse can be interfered with, by a writ court. Applying the aforesaid principles to the facts of the case at hand, this Court finds that the impugned orders cannot be sustained.

14. Upon scrupulously going through the records, it transpires that the charge against the petitioner essentially rests upon the allegation that the departmental vehicle was stolen while it was under his custody and that such occurrence was attributable to his negligence. At this juncture, this court finds it imperative to reiterate the principle of vicarious liability here.

15. It is witnessed that the subsequent order dated 12.08.2019, whereby the departmental proceeding against the Dairy Research Officer, Anmol Kumar, arising out of the same occurrence was dropped and he was exonerated. The primary charges framed against Shri Anmol Kumar (Cattle Research Officer,



Bihar, Patna) was of unauthorized vehicle use and procedural non-compliance, demonstrating arbitrary behavior and failing in standard duties by disregarding the Bihar Government Servants' Conduct Rules. An inquiry was conducted, and it was concluded that taking the vehicle out of headquarters without prior notice was not proven to be malicious, as Mr. Kumar had applied for casual leave (which was approved by competent authorities) citing an urgent personal visit to Muzaffarpur. An insurance settlement claim of ₹ 2,03,190/- was also successfully recovered and deposited back into the government treasury via demand draft/challan, resulting in no financial loss to the public exchequer.

Since the main allegations of unapproved absence were disproved and the financial cost was fully compensated, the government decided to exonerate Shri Anmol Kumar and officially close the departmental proceedings against him.

16. The charges levelled against the Senior Officer were different from that of the charges levelled against the petitioner. However, it is expedient to state that the Petitioner herein, was acting upon the direction of the said Superior Officer. By applying the principle of vicarious liability and the Latin maxim "*respondeat superior*" which means to let the master answer, categorically makes an employer liable for all acts of the employee. In light of the aforesaid principles of law, the Senior Officer should have also faced the same charges as that which was imposed upon the Petitioner.

17. Exonerating the Superior Officer, while punishing the subordinate officer, in the present case, the Petitioner, is legally unsustainable because it penalizes a



subordinate for executing the direct commands of a superior officer who possessed sole operational control over the vehicle's movement. Under the principles of vicarious liability, primary responsibility remains with the controlling authority when a subordinate acts strictly under their supervision and lacks independent volition. As established by the Supreme Court in ***Dharangadhara Chemical Works Ltd. v. State of Saurashtra*** reported in AIR 1957 SC 264, the foundational test of an employment relationship is the master's right to control not only what work is done, but the exact manner in which it is executed. The relevant paragraph in this regard is,

“14. The prima facie test for the determination of the relationship between master and servant is the existence of the right in the master to supervise and control the work done by the servant not only in the matter of directing what work the servant is to do but also the manner in which he shall do his work...”

Because the petitioner took the official vehicle to Muzaffarpur, parked it, and stayed overnight solely pursuant to explicit orders from the Dairy Research Officer, Shri Anmol Kumar, the operational command remained entirely with the superior. Holding the driver liable for negligence after the superior officer was fully exonerated also, directly violates the **Doctrine of Parity** under Article 14 of the Constitution, laid down in ***Rajendra Yadav v. State of M.P.*** reported in (2013) 3 SCC 73, which in paragraph 9 mandates equal treatment among co-delinquents and forbids punishing a subordinate while clearing the primary decision-maker,



"9. The doctrine of equality applies to all who are equally placed; even among persons who are found guilty. Parity among co-delinquents has also to be maintained when punishment is being imposed. The Disciplinary Authority cannot impose punishment which is disproportionate, i.e., lesser punishment for serious offences and stringent punishment for lesser offence"

18. Consequently, penalizing the driver based on the mere fact of theft without identifying any personal act of misconduct constitutes a perverse finding as stipulated in **Kuldeep Singh v. Commissioner of Police** reported in **(1999) 2 SCC 10**, as no reasonable person could attribute sole culpability to an agent executing lawful orders.

It is a relevant circumstance requiring consideration, particularly when the specific defense of the Petitioner throughout has been that he was acting under the directions of the said officer and was accompanying him in connection with official duties. The respondents have not demonstrated from the impugned orders that this aspect was meaningfully considered while determining the petitioner's individual culpability. The disciplinary authority was required to determine negligence on part of the Petitioner on the basis of evidence and not merely by drawing an assumption from the fact of theft. The material placed before this Court does not disclose any specific act of negligence attributable to the petitioner which independently establishes misconduct. The consistent case of the Petitioner is that he was driving the vehicle pursuant to the direction of his



superior officer, had accompanied the officer to Muzaffarpur and had parked the vehicle at the place indicated by the officer.

19. The respondents have not been able to point out any specific material establishing that the petitioner deliberately abandoned the vehicle, violated a particular direction, left the vehicle at an unauthorized place on his own or otherwise committed a defined act of negligence which directly resulted in the theft. Mere theft of the vehicle while in the custody of the driver cannot, by itself, constitute conclusive proof of negligence.

20. In addition to the absence of substantive evidence establishing negligence, the departmental proceedings against the petitioner suffer from grave procedural infirmities, as recorded in the appellate order itself (Annexure-9). The Inquiry Officer failed to examine the primary controlling authority, the Dairy Research Officer (Shri Anmol Kumar), whose testimony was indispensable under the rules to verify whether the driver acted under explicit commands. Furthermore, the Investigating Officer of Kazi Mohammadpur P.S. Case No. 209/16 was never summoned to explain the findings of the theft investigation. Instead of independently evaluating the delinquent's defense, the Inquiry Officer blindly accepted the Presenting Officer's statements and relied upon an unverified petrol pump receipt that was never authenticated by the issuing entity. These omissions demonstrate a complete failure to adhere to the procedure mandated by General Administration Department Circular No. 9407 dated 02.07.2012 and Rules 18 and 19 of the Bihar Government Servants (CCA) Rules, 2005. Conducting a



departmental enquiry in violation of the principles of natural justice and relying on unproved, unauthenticated material renders the finding of guilt perverse, arbitrary, and legally unsustainable.

21. The appellate authority reduced the punishment to withholding of one increment with cumulative effect. However, reduction of punishment does not cure an infirmity in the underlying finding of guilt. The question before this Court is not merely whether the punishment was excessive, but whether the finding that the petitioner was negligent is itself supported and backed by evidence.

22. The appellate order principally proceeds on the basis of the petitioner's alleged "carelessness attitude" but does not identify, with sufficient particularity, the evidence establishing the precise negligent act committed by the petitioner. A finding of guilt in a disciplinary proceeding cannot rest merely upon an inference that because the vehicle was stolen, the driver must necessarily have been negligent.

23. The petitioner himself lodged the FIR immediately after the vehicle was stolen and the police investigation culminated in Final Form No. 835/2016 dated 30.11.2016. It is true that the standard applicable to a criminal investigation and the standard applicable to a departmental proceeding are different and, therefore, submission of a final form cannot by itself conclusively terminate departmental liability.

24. Nevertheless, the final form is a relevant piece of surrounding material and, where the departmental authorities rely upon the same occurrence to hold an



employee guilty of negligence, the disciplinary authority must independently demonstrate the material on the basis of which the departmental charge stands established. The impugned orders do not sufficiently identify such material.

25. The present case therefore, falls within the recognized exception to the rule of limited judicial review. The fact that the vehicle was stolen is undisputed, but the fact of theft and the fact of negligence are two distinct matters. The former cannot automatically establish the latter. Further, the punishment order does not adequately demonstrate why the petitioner's explanation was rejected or what particular evidence established negligence on his part. The appellate authority, while reducing the punishment, has also not supplied the missing foundation by identifying the precise material establishing the charge. Thus, the defect is not merely one relating to the quantum of punishment; it goes to the very foundation of the disciplinary action.

26. The court is of the firm view that administrative action affecting service rights must satisfy the requirements of fairness, non-arbitrariness and reasoned decision-making under Article 14 of the Constitution. The withholding of an increment with cumulative effect has continuing consequences upon the petitioner's service benefits and pay. Such a consequence cannot be imposed merely upon an assumption of negligence without adequate material. This Court is conscious of the limited scope of judicial review in disciplinary matters and is not re-appreciating the evidence merely because another view is possible. The interference in the present case is warranted because the basic finding of



negligence is not demonstrated to be founded upon legally sustainable evidence and the impugned orders proceed substantially upon the fact that the official vehicle was stolen while in the petitioner's custody, without adequately establishing the specific negligent act attributable to him.

27. In the aforesaid backdrop, this Court finds that the punishment imposed upon the petitioner cannot be sustained. The punishment order dated 20.01.2017(Annexure -7 to this writ petition)., whereby the petitioner was punished with withholding of two increments with cumulative effect, is hereby **quashed**. Consequently, the appellate order dated 30-07-2018 (Annexure-9 to this writ petition), whereby the punishment was modified/reduced to withholding of one increment with cumulative effect, is also **quashed**.

28. The respondents are directed to restore the withheld increment and grant the petitioner all consequential service benefits flowing from quashing of the aforesaid punishment orders, including appropriate correction of his service record and consequential monetary benefits, in accordance with law.

29. The writ petition is, accordingly, **allowed**.

30. There shall be no order to cost.

(Kumar Manish, J)

sanjeev/-

AFR/NAFR	AFR
CAV DATE	11-08-2026
Uploading Date	18-08-2026
Transmission Date	

