

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No.1297 of 2026

Surendra Singh, son of Prof. T.N. Singh, residing at Prof. Colony, Karamtoli, Post Ranchi University, Police Station Lalpur, District Ranchi.
... ... Petitioner

Versus

1. The State of Jharkhand.
2. The Secretary, Agriculture, Animal Husbandry and Cooperative Department, (Co-Operative Division), Government of Jharkhand, Ranchi, officiating from Nepal House, Post Doranda, Police Station Doranda, District Ranchi.
3. The Joint Secretary, Agriculture, Animal Husbandry and Cooperative Department, (Co-Operative Division), Government of Jharkhand, Ranchi, officiating from Nepal House, Post Doranda, Police Station Doranda, District Ranchi.

... ... Respondents

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Mrs. Ritu Kumar, Advocate
 Mr. Samavesh Bhanj Deo, Advocate
 Mr. Raj, Advocate
 For the Respondent(s): Mr. Mihir Kunal Ekka, AC to SC-I

02/ 25.02.2026

Heard learned counsel representing the petitioner and learned counsel representing the respondents.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioner has prayed for a direction upon the respondents to quash the impugned Letter bearing No.1232 dated 22.11.2024 (Annexure-4 to the writ petition), whereby second Show Cause Notice was issued to the petitioner, asking him to file an appropriate reply so that the Departmental Proceeding can be concluded.

2.1. The petitioner has further prayed to conclude the Departmental Proceeding and pay the Gratuity amount to the petitioner which has not been disbursed even after his

superannuation.

3. Learned counsel representing the petitioner submits that while in service, the petitioner was served with a Departmental Charge Sheet and thereafter a Departmental Enquiry was initiated. She submits that in the Departmental Enquiry, the petitioner was exonerated as the Enquiry Officer did not find any of the charges to be proved against the petitioner. She contends that the enquiry report was submitted on 21.06.2022, but the respondents slept over the same and did not take any action. She submits that only after the petitioner filed a representation to take appropriate action in terms of the enquiry report, the respondents issued the impugned Notice dated 22.11.2024 to the petitioner, differing with the enquiry report. It is her contention that the Law provides that the Disciplinary Authority can differ with the findings of the Enquiry Officer but the reasons and the grounds thereof should be communicated to the petitioner. Learned counsel argues that the impugned Letter, which is supposed to be the second Show Cause Notice, differing with the enquiry report, does not highlight any ground, based on which the Disciplinary Authority is differing with the enquiry report. She submits that the petitioner superannuated w.e.f. 31.01.2025, and the proceeding has been converted to one under Rule 43 (c) of the Jharkhand Pension Rules, but the matter has still not been finally decided and is kept pending, as a result of which the petitioner has not been paid the Gratuity. She submits that the respondents have got no authority and jurisdiction to

withhold full Gratuity even during pendency of the proceeding. She lastly submits that necessary documents have not been supplied to the petitioner, which prevented the petitioner to file appropriate reply.

4. Learned counsel representing the respondent – State opposes the aforesaid prayer and submits that no final order has been passed in the Proceeding after its conversion under Rule 43 (b) of the Jharkhand Pension Rules. He submits that the impugned Letter is a Letter intimating the petitioner that the Disciplinary Authority has differed with the finding arrived at by the Enquiry Officer, which is sufficient. So far as the documents are concerned, he submits that there is nothing to suggest as to whether these documents are relevant for the purpose of the proceeding or not. So far as withholding of Gratuity is concerned, as per him, not only the part of the Gratuity but the entire Gratuity can be withheld, if there is a proceeding pending against the petitioner.

5. After hearing the parties, I find that the petitioner was appointed on the post of Assistant Registrar, Cooperative Societies, on 01.12.1995. After the bifurcation of State of Bihar, he was allocated the State of Jharkhand.

5.1. A Departmental Proceeding was initiated against the petitioner on 20.09.2021. In the said Departmental Proceeding, an Enquiry Officer was appointed and the petitioner participated in the said Enquiry.

5.2. The enquiry report was submitted on 21.06.2022,

exonerating the petitioner.

5.3. The respondents thereafter kept mum and did not take any steps. Only on 22.11.2024, they issued a second Show Cause Notice, seeking reply as to why not the petitioner be punished. This notice was issued as the Disciplinary Authority has differed with the finding of the Enquiry Officer.

6. I have gone through the enquiry report and the second Show Cause Notice. It is not necessary to deal in details about the Departmental Proceeding and the charges, for the purpose of deciding this writ petition. Admittedly, the Enquiry Officer exonerated the petitioner but the Disciplinary Authority while issuing the second Show Cause Notice, has differed with the finding of the Enquiry Officer.

7. It is well settled that the Disciplinary Authority is not bound by the finding arrived at by the Enquiry Officer during the Departmental Proceeding. The Disciplinary Authority can differ with the finding.

7.1. The Hon'ble Supreme Court in the case of ***Punjab National Bank & Ors. Vs. Sh. Kunj Behari Misra*** reported in ***(1998) 7 SCC 84***, at para-14 and 19, has held as follows :-

"14. In Ram Kishan case [(1995) 6 SCC 157 : 1995 SCC (L&S) 1357 : (1995) 31 ATC 475] disciplinary proceedings on two charges were initiated against Ram Kishan. The enquiry officer in his report found the first charge not proved and the second charge partly proved. The disciplinary authority disagreed with the conclusion reached by the enquiry officer and a show-cause was issued as to why both the

charges should not be taken to have been proved. While dealing with the contention that the disciplinary authority had not given any reason in the show-cause to disagree with the conclusions reached by the enquiry officer and that, therefore, the finding based on that show-cause notice was bad in law, a two-Judge Bench at p. 161 observed as follows: (SCC para 10)

"The purpose of the show-cause notice, in case of disagreement with the findings of the enquiry officer, is to enable the delinquent to show that the disciplinary authority is persuaded not to disagree with the conclusions reached by the enquiry officer for the reasons given in the enquiry report or he may offer additional reasons in support of the finding by the enquiry officer. In that situation, unless the disciplinary authority gives specific reasons in the show-cause on the basis of which the findings of the enquiry officer in that behalf is based, it would be difficult for the delinquent to satisfactorily give reasons to persuade the disciplinary authority to agree with the conclusions reached by the enquiry officer. In the absence of any ground or reason in the show-cause notice it amounts to an empty formality which would cause grave prejudice to the delinquent officer and would result in injustice to him. The mere fact that in the final order some reasons have been given to disagree with the conclusions reached by the disciplinary authority cannot cure the defect."

"19. *The result of the aforesaid discussion would be that the principles of natural justice have to be read into Regulation 7(2). As a result thereof, whenever the disciplinary*

authority disagrees with the enquiry authority on any article of charge, then before it records its own findings on such charge, it must record its tentative reasons for such disagreement and give to the delinquent officer an opportunity to represent before it records its findings. The report of the enquiry officer containing its findings will have to be conveyed and the delinquent officer will have an opportunity to persuade the disciplinary authority to accept the favourable conclusion of the enquiry officer. The principles of natural justice, as we have already observed, require the authority which has to take a final decision and can impose a penalty, to give an opportunity to the officer charged of misconduct to file a representation before the disciplinary authority records its findings on the charges framed against the officer.” “

8. In this case, the Disciplinary Authority has differed with the finding. It is also the requirement of Law that once the Disciplinary Authority differs with the finding arrived at by the Enquiry Officer, the Disciplinary Authority has to issue a notice giving the reasons and the grounds as to why he is differing with the report of the Enquiry Officer. In this case, after going through the impugned Letter, which is the second Show Cause Notice, I find that the Disciplinary Authority has merely reiterated the allegation and the charge against the petitioner but admittedly has not set out any ground in the said notice as to why he is differing with the findings of the enquiry report.

8.1. Without highlighting the grounds of difference, no

Second Show Cause Notice can be issued. Thus, an illegality has been committed by the Disciplinary Authority. Since no ground has been mentioned as to why the Disciplinary Authority has differed with the findings of the Enquiry Officer, the second Show Cause Notice asking the petitioner to file an appropriate reply is bad in the eyes of Law, as the same also violates the principles of natural justice.

9. So far as withholding of Gratuity is concerned, Rule 43 (c) of the Jharkhand Pension Rules, gives power to the employer to withhold Gratuity when a Departmental Proceeding is pending against an employee. Rule 43 (c) of the Jharkhand Pension Rules, 2000, reads as hereunder:-

"43. (c) Where any departmental or judicial proceeding is instituted or continued against an officer/employee who has retired on attaining the age of compulsory retirement or otherwise, he shall be sanctioned by the Government which instituted such proceeding, during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceeding final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service upto the date of retirement, or if he was under suspension on the date of retirement, upto the date immediately preceding the date on which he was placed under suspension, but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceedings and the issue of final orders thereon."

9.1. From perusal of the aforesaid provision, it is clear that the employer has a right to fix provisional pension in respect of their employees against whom any Departmental Proceeding or Judicial Proceeding is pending. This provisional pension will not exceed the maximum pension, which would have been admissible to the employees. This gives a discretion to the employer to fix the amount of provisional pension at the rate which they chose. So far as Gratuity is concerned, it has been clearly mentioned that no Gratuity or Death-cum-Retiral-Gratuity shall be paid to him, until conclusion of the said proceeding. This means that so far as Gratuity is concerned, no discretion is left with the employer. The employer can withhold the entire Gratuity amount, if a Departmental Proceeding or a Criminal Proceeding is pending against the delinquent-employee. The same can only be disbursed after conclusion of the said proceeding. In this case, the respondents have not committed any illegality in withholding the entire Gratuity amount.

10. Considering the aforesaid facts of this case and what has been held above, I am inclined to set aside the impugned Second Show Cause Notice as contained in Letter bearing No.1232 dated 22.11.2024 (Annexure-4 to the writ petition). The same is hereby set aside.

11. So far as the documents are concerned, the petitioner is given a liberty to file a fresh representation, within four weeks from today, to the Disciplinary Authority seeking the documents which the petitioner wants. The petitioner will inform as to how

these documents are relevant for the case.

11.1. On receipt of the said representation, the Disciplinary Authority will take a decision for furnishing the documents, within two weeks thereafter. If the documents are necessary and connected with the misconduct of the petitioner, the same should be supplied to the petitioner, within two weeks.

12. The respondents will issue a fresh second Show Cause Notice to the petitioner, within four weeks from the date of receipt of copy of this order, highlighting the ground for differing with the finding of the Enquiry Officer.

12.1. The petitioner will give a detailed reply within four weeks thereafter.

13. So far as the proceeding is concerned, it is expected that the proceeding should be concluded within six months from the date of filing of reply by the petitioner to the second Show Cause Notice.

14. With the aforesaid observations and directions, this writ petition stands **disposed of**.

(ANANDA SEN, J.)

*25th February, 2026
Prashant. Cp-2*

AFR

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