

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 317 of 2022

Satyam Bhardwaj, aged about 42 years, Son of Late Lal Mohan Mishra, Resident of Bhardwaj Bhawan, PO & PS. Dudhani, District-Dumka (Jharkhand), presently posted as Assistant Section Officer, Department of Home, Prisons and Disaster Management, Jharkhand, Project Bhawan, PO-Dhurwa, PS-Jagannathpur, District-Ranchi (Jharkhand).
... .. Petitioner(s)

Versus

1. The State of Jharkhand through the Chief Secretary, Government of Jharkhand, Project Bhavan, PO-Project Bhavan, PS-Jagannathpur, District-Ranchi, State-Jharkhand.
2. The Principal Secretary, Department of Personnel Administrative Reforms and Rajbhasha, Government of Jharkhand, PO & PS-Dhurwa, District-Ranchi.
3. The Joint Secretary, Department of Personnel Administrative Reforms and Rajbhasha, Government of Jharkhand, PO & PS-Dhurwa, District-Ranchi.
4. The Deputy Secretary, Department of Personnel Administrative Reforms and Rajbhasha, Government of Jharkhand, PO & PS-Dhurwa, District-Ranchi.

... .. Respondent(s)

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Mr. Rakesh Kumar, Advocate
For the Respondent(s) : Mr. Kishore Kr. Singh, SC-V
Mr. Sushawan Bhawmik, AC to SC-V

12/ 22nd January, 2026

1. Heard, learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the State.
2. By filling this writ petition the petitioner is praying to quash the order dated 27.11.2020, contained in Memo No.6156 by which after conclusion of the departmental proceeding, the petitioner has been inflicted with punishment of stoppage of three increments without any cumulative effect. Further, he challenged the Appellate Order dated 01.12.2022 contained in Memo No.7576 also by which the appeal was rejected.
3. The learned counsel appearing on behalf of the petitioner argues that the order is absolutely bad in law and the provisions/ the procedure laid down in service rules for initiating a

departmental proceeding and punishing the employee, has not been opted by the respondents. As per him, there are no evidences which is led by the respondents to prove the charges against the petitioner. He also submits that on the facts of this case, the petitioner who was an Assistant Section Officer did have any capacity or power to extend the time or did not have any role to play in the departmental proceeding which was initiated against one-Matias Vijay Toppo. He submits that there are other persons in the hierarchy but without any reasons, the petitioner has been punished.

4. The learned counsel appearing on behalf of the State submits that the punishment which has been imposed upon the petitioner is a minor punishment, thus, this Court should not interfere. According to him since the charge which was levelled against the petitioner stands proved, this Court exercising jurisdiction under Article 226 of the Constitution should not interfere with the order of punishment. He argues that the Enquiry Officer found the charges levelled against the petitioner to be proved, thus this Court should not substitute its own views and exonerate him. He lastly submits that from the enquiry report, it is clear that the department has proved the charges which has been levelled against the petitioner, thus no interference is called for.

5. The petitioner was an Assistant Section Officer. One Matias Vijay Toppo who was an SAR Officer, was suspended by the department. He filed writ petition being WP(S) No.1753/2016 before the High Court of Jharkhand. The same writ petition was disposed of on 31.08.2017 with specific direction upon the Principal Secretary, Department of Personnel, Administrative Reforms and Rajbhasha, Government of Jharkhand, to conclude the departmental proceeding within one month with a condition that if the same is not concluded within one month, the suspension order would stand revoked. Further, it was made clear in the aforesaid order that if the reply to the Second Show Cause Notice by the petitioner is not received within next 15 days, the Disciplinary Authority shall be at liberty to pass final order. In

connection with the aforesaid matter, the petitioner was charge-sheeted. The allegation against the petitioner as per the charge-sheet is that the petitioner proposed to grant time to Matiyas Vijay Toppo to file reply to the Second Show Cause Notice. Further, there is an allegation that the petitioner did not brought the file to the notice of the higher officials within time and the order was not placed before the Officers. There was also an allegation against the petitioner that he did not move any proposal in consonance with the order of the High Court wherein it was directed that if the departmental enquiry is not concluded within a month, the said Matiyas Vijay Toppo will be relieved from his suspension. Further, there is an allegation against the petitioner that he did not move any proposal to file an appeal against the aforesaid order, nor filed any interlocutory application seeking for extension of time for which the contempt application was filed, as a result of which the image of Department suffered a setback. Lastly, it has alleged that as time was granted to the Matiyas Vijay Toppo to file his reply to the Second Show Cause Notice, a new writ application was filed and a stayed order was obtained by him which created impediments in functioning of the department.

6. On the aforesaid allegation, charge-sheet was submitted which was issued to the petitioner on 30.08.2019.

7. The forwarding letter of the charge-sheet has also been annexed by the petitioner in Annexure-2 of the writ petition. The same is dated 19.09.2019. From the aforesaid letter, I understand that the respondents wanted to proceed against the petitioner in terms of Rule, 17(4) of the Jharkhand Government Servants (Classification, Control & Appeal) Rules, 2016. An Enquiry Officer was appointed. Before the Enquiry Officer, the department placed their case through a Presenting Officer. The Enquiry Officer noted the statement and submission of this petitioner on each charge and also recorded the submission of the Presenting Officer. The Enquiry Officer ultimately arrived at a conclusion that the charges which was levelled against the petitioner stands proved, thus he submitted the enquiry report. After receipt of the enquiry report, the Disciplinary Authority imposed the punishment vide the

impugned order dated 27.11.2020. At this stage, it is pertinent to mention here that the punishment which has been imposed is a minor punishment, though the initiation of the proceeding was under Rule 17(4) of the Jharkhand Government Servants (Classification, Control & Appeal) Rules, 2016, which is a procedure for imposing major penalty.

8. The procedure for imposing penalty in a departmental proceeding for the employees of the Government of Jharkhand is covered by the Jharkhand Government Servants (Classification, Control & Appeal) Rules, 2016. The said Rules has been framed in exercise of the powers conferred under Proviso to Article 309 of the Constitution of India. Part VI of said Rules deals with procedure for imposing penalties. Rule 17 provides for the procedure for imposing major penalties, while Rule 19 provides for the procedure for imposing minor penalty.

9. As per Rule 17(1) for imposing penalties specified in Clause (v) to (xi) of Rule 14, holding of an enquiry has been made mandatory in the manner which is provided in the Rules. As per Rule 17(3), it is the duty of the Disciplinary Authority to draw up the substance of imputation of the misconduct or misbehavior as a definite and distinct article of charge. Further, the statement of imputation of the misconduct or misbehavior in support of each of the charge shall also be drawn up and shall contain a statement of all relevant facts including any admission or confession made by the Government servant. A list of documents and a list of witnesses by and through whom the article of charge are proposed to be proved, should also be mentioned. As per Rule 17(4), the Disciplinary Authority shall deliver to the Government servant a copy of the article of charge along with the such statement of imputations of misconduct or mis-behavior. Not only those, but as per the said Rules, list of document and witnesses by which the each of the article is proposed to be sustained shall also be served to the delinquent employee. Only after furnishing all these, the Enquiry Officer can proceed against him. Further, as per Rule 5(a), if the charge is not admitted, the same has to be proved in the departmental proceeding and the said finding on the guilt must be

arrived at after taking evidence. Rule 17(14) provides that on the date fixed for enquiry, oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority. Further, the witnesses shall be examined by or on behalf of Presenting Officer and they may be cross-examined by the government servant. The Enquiry Authority has also been given a liberty to put such questions to the witness, as it things fit. As per 17(23) after conclusion of the enquiry, a record shall be prepared which will contain the articles of charges and the statement of imputation of misconduct or misbehavior, the defence of the Government servant in respect of each article of charges and assessment of evidence in respect of each article of charges and the finding on each article of charges and the reasons thereof. In a case where the Enquiry Authority is not the Disciplinary Authority, then the Enquiry Authority will forward before the Disciplinary Authority a report prepared by him, considering the points mentioned above which will contain what has been mentioned above.

The relevant part of Rules 17 of the Rules which has been referred to, is quoted as hereinbelow:-

"PART - VI

PROCEDURE FOR IMPOSING PENALTIES

17. Procedure for imposing major penalties :-

- 1)** *No order imposing any of the penalties specified in clauses (v) to (xi) of rule 14 shall be made without holding an inquiry, as far as may be, in the manner provided in these Rules.*

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- 3)** *Where it is proposed to hold an inquiry against a Government Servant under this rule, the Disciplinary Authority shall draw up or cause to be drawn up :-*
- i) The substance of the imputations of misconduct or misbehaviour as a definite and distinct article of charge.*
 - ii) A statement of the imputations of misconduct or misbehaviour in support of each article of charge, which shall contain :-*
 - a) A statement of all relevant facts including any admission or confession made by the Government Servant;*
 - b) A list of such document by which, and a list of such witnesses by whom, the articles of charge are proposed to be sustained.*

EXPLANATION :- *Where Criminal case is pending against a Government Servant the Departmental Proceeding and Criminal Proceeding may be conducted simultaneously, but*

the set of evidence of Departmental Proceeding shall be different from the Criminal Proceeding. In such case the article of charges shall be based on administrative lapses and misconduct committed by the Government Servant.

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4) *The Disciplinary Authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge, such statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Government Servant to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person.*

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5) a) *On receipt of the written statement of defence, the Disciplinary Authority may himself inquire into such of the articles of charge which are not admitted, or, if it thinks necessary, to appoint, under sub rule (2) of this rule, an inquiry authority for the purpose, where all the articles of charges have been admitted by the Government Servant in his written statement of defence, the Disciplinary Authority shall record his finding on each charge, after taking such evidence as it may think fit and shall take action in the manner laid down in rule 18.*

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14) *On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the Disciplinary Authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the Government Servant. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses, as it thinks fit.*

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23) i) *After the conclusion of the inquiry, a record shall be prepared and it shall contain :-*
a) *the articles of charge and the statement of the imputations of misconduct or misbehaviour. b)*
the defence of the Government Servant in respect of each article of charge.
c) *an assessment of the evidence in respect of each article of charge.*
d) *the findings on each article of charge and the reasons thereof.*

EXPLANATION :- *If in the opinion of the inquiring authority the proceedings of the inquiry may establish any article of charge different from the original articles of the charge, he may record his findings on such article of charge :*

Provided that the findings on such article of charge shall not be recorded unless the Government Servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against

such article of charge."

ii) The inquiring authority, where it is not itself the Disciplinary Authority, shall forward to the Disciplinary Authority the records of inquiry which shall include –

a) the report prepared by it under clause (i) of this sub rule;

b) the written statement of defence, if any, submitted by the Government Servant;

c) the oral and documentary evidence produced in the course of the inquiry;

d) written briefs, if any, filed by the Presenting Officer or the Government Servant or both during the course of the inquiry; and

e) the orders, if any, made by the Disciplinary Authority and the inquiring authority in regard to the inquiry.

These all are the rules & procedures which are to be followed for imposition of punishment.

10. In the instant case, the petitioner has been imposed with the penalty of withholding of three increments without cumulative effect. Withholding of increment of pay without cumulative effect and which is not adversely affecting his pension or withholding confirmation of service is a minor punishment, which is evident from Rule 14(iv) of the Rules.

11. Rule 19 provides for the procedure for imposing a minor penalty. It is necessary to quote the aforesaid provision.

"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 (iv) 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) considering the representation, if any, submitted by the Government Servant under clause (a);

c) recording a finding on each imputation of misconduct or misbehaviour."

12. As observed earlier, the department initiated the proceeding against the petitioner in terms of Rule 17 which is a procedure for imposing major penalties. Once the said procedure is followed, even if at the ultimate stage, the Disciplinary Authority

decides to impose a minor punishment, then also the procedure prescribed needs to be followed and completed.

13. Further, from Rule 19 also it is clear that there is a provision to forward the copy of the enquiry report with its finding before the Disciplinary Authority for imposing minor penalties also. When an enquiry is being held in the disciplinary proceeding, the provisions which has been laid down in Rule 17 needs to be followed, specially the recording of evidence, providing copy of the charge along with the list of the witnesses and the documents. When I go through the charge-sheet which has been supplied to the petitioner, I find that Appendix-3 is the evidence list which has been forwarded to the petitioner. As per the said list, there is only two materials which according to the State are the evidence in support of the charge levelled against the petitioner. Those are:-

- "1. Order dated 31.08.2017 passed in WP(S) No.1753 of 2016.
2. Notings made in departmental file No. संचिका सं0-5/आरोप-1-75/2016."

From the aforesaid list of evidence, it is clear that the department is trying to prove the case based on documentary evidence only as it is apparent that there is no whisper of any oral evidence in this case.

14. The enquiry report is also before this Court as the same has been brought on record by the respondents. From the perusal of the said enquiry report, I find that the Enquiry Officer, on conclusion of the enquiry had arrived at an opinion that the charges levelled against the petitioner has been proved. Surprisingly, while going through the entire enquiry report, I find that there is no oral evidence recorded. The entire material based on which the Enquiry Officer concluded that the charge is proved, is based on the documents. Surprisingly, no one had proved the documents nor proved the contents of those documents. In this context, it is necessary to rely upon the judgment of the Hon'ble Supreme Court in the case of "**Roop Singh Negi Vs. Punjab National Bank**, reported in **(2009) 2 SCC 570**" wherein it has been held by the Hon'ble Supreme Court that the departmental

proceeding is a quasi-judicial proceeding. The Enquiry Officer performs a quasi-judicial function. The Enquiry Officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. In that case documents collected during investigation was the evidence. In that case no witnesses were examined to prove the said documents. The management merely tendered the documents and did not prove the contents thereof. The Hon'ble Supreme Court thus held that these documents cannot be considered. It is necessary to quote paragraph 14 of the aforesaid judgment which is as under:-

"14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence."

15. Further, in the case of **"State of U.P. Vs. Saroj Kumar Sinha"** reported in **(2010) 2 SCC 772** in paragraph 28 it has been held that an Enquiry Officer who is acting as a quasi-judicial Authority is an independent adjudicator. He is not supposed to be the representative of the department or the Disciplinary Authority or the Government. His function is to examine the evidence presented by the department and even in absence of the delinquent officer to see as to whether the evidence sufficient to hold the charge proved. It is necessary quote paragraph No.28 which is as under:-

"28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the un rebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been

taken into consideration to conclude that the charges have been proved against the respondents."

16. Thus, from the aforesaid two judgment, it is clear that the Enquiry Officer has to examine the evidence and thus, if these both judgments are read in conjunction, it is clear that the Enquiry Officer has to rely upon the evidence and if the evidence is documentary, the same needs to be proved by oral evidence.

17. In a judgment rendered by the Hon'ble Supreme Court in the case of "**State of Uttar Pradesh through Principal Secretary, Panchayati Raj, Lucknow Vs. Ram Prakash Singh**", reported in **2025 SCC OnLine SC 891** at paragraph No.14, the Hon'ble Supreme Court has held that the materials which can be considered in the departmental proceeding are the materials which is "brought on record" by the parties. It further held that those materials should be brought on record in a manner known to law, then only the said materials can be considered as legal evidence which can be acted upon. In the aforesaid judgment, the Hon'ble Supreme Court had noted that though strictly speaking the evidence act is not applicable in the departmental enquiry, nevertheless the principles therefrom can be applied in specific case. It is necessary to quote paragraph 14 of the aforesaid judgment, which is hereunder:-

"14. What follows from a conjoint reading of the above two decisions is and what applies here is that, 'materials brought on record by the parties' (to which consideration in the enquiry ought to be confined) mean only such materials can be considered which are brought on record in a manner known to law. Such materials can then be considered legal evidence, which can be acted upon. Though the Indian Evidence Act, 1872 is not strictly applicable to departmental enquiries, which are not judicial proceedings, nevertheless, the principles flowing therefrom can be applied in specific cases. Evidence tendered by witnesses must be recorded in the presence of the delinquent employee, he should be given opportunity to cross-examine the witnesses and no document should be relied on by the prosecution without giving copy thereof to the delinquent - all these basic principles of fair play have their root in such Act. In such light, the documents referred to in the list of documents forming part of the annexures to the chargesheet, on which the department seeks to rely in the enquiry, cannot be treated as legal evidence worthy of forming the basis for a finding of guilt if the contents of such documents are not spoken to by persons competent to speak about them. A document does not prove itself. In the enquiry, therefore, the contents of the relied-on documents have to be proved by examining a witness having knowledge of the

contents of such document and who can depose as regards its authenticity. In the present case, no such exercise was undertaken by producing any witness.”

18. Thus, the law is well-settled now that if a document needs to be relied upon in departmental proceeding by the Enquiry Officer in support of the charge, not only the said document should be brought on record but the same has to be brought on record in a manner known to law which means the document should be proved by oral evidence and its contents thereof also.

19. Considering the aforesaid judgment of the Hon'ble Supreme Court, this Court in the case of "***Shyam Nath Dube Vs. The State of Jharkhand & Ors.***" in WP(S) No.2076 of 2021, [Neutral Citation-2026:JHHC:945] has held that a document does not prove by itself. The same has to be proved as per the law by examining witnesses and merely annexing a document with the charge-sheet cannot be said to be bringing a document on record as per law and those documents cannot be relied upon by the Enquiry officer unless the same is proved in the enquiry proceeding.

20. In the case in hand, admittedly no witnesses were examined either to prove the document or to prove contents thereof. Thus, without their being any legal evidence, the Enquiry Officer arrived at a finding that the charges against the petitioner stands proved, which according to the aforesaid judgments cannot be sustained.

21. Another aspect in this case is that the petitioner has been imposed with a minor punishment. As noted earlier, the procedure for imposing minor punishment is prescribed in Rule 19 of the aforesaid Rules. Rule 19(c) provides that there must be a recording of finding on each of the imputation of misconduct or misbehavior for imposing the punishment. As per Rule 19, the minor punishment can be imposed based on the denial of charge and the written statement submitted by the delinquent employee but while imposing the punishment, the Disciplinary Authority must deal with and record a finding on each of the imputation of

the misconduct or the mis-behavior. In this case, when I go through the impugned order, I find that the Disciplinary Authority did not consider the representation of the delinquent employee nor recorded any finding on each of the imputation or misconduct or mis-behavior. This is an independent function which in the facts of this case, the Disciplinary Authority should have undertaken as because the finding of the Enquiry Officer to the extent that the charges is proved as held above, is based on no legal evidence. When the report of the Enquiry Officer is based no legal evidence, then if the Disciplinary Authority wants to impose a minor punishment, then he has to act independently without taking into consideration the report of the Enquiry Officer. Then in that case he has to independently record a finding on each of the imputation of the misconduct or mis-behavior that too, after considering the representation of the delinquent employee, which is missing in this case.

22. Considering what has been discussed above, the enquiry report dated 30.09.2020 and order of punishment dated 27.11.2020 is hereby quashed as the same violates the provision of law and also the principle of natural justice. The Appellate Order dated 01.12.2022 is also quashed and set aside.

23. Now the next issue which has been raised by the learned counsel for the respondents is that if impugned order is set aside on the ground of violation of the principle of natural justice or not properly following the rules, then the matter should be remitted to the Disciplinary Authority to take a fresh decision.

24. The learned counsel for the respondents relies upon the judgment of the Hon'ble Supreme Court in the case of "**State of U.P. Vs. Rajit Singh**, reported in **(2022) 15 SCC 254**. In the aforesaid judgment in paragraph 12, the Hon'ble Supreme Court has relied upon the Judgment in the case of "**LIC v. A. Masilamani** [**LIC v. A. Masilamani**, reported in **(2013) 6 SCC 530 : (2013) 2 SCC (L&S) 608**. The paragraph 12 quoted paragraph 16 of the aforesaid judgment, which is hereinbelow:-

"12. In LIC v. A. Masilamani [LIC v. A. Masilamani, (2013) 6 SCC 530 : (2013) 2 SCC (L&S) 608] , which was also pressed into service on behalf of the appellants before the High Court, it is observed in

para 16 as under : (SCC p. 536)

"16. It is a settled legal proposition, that once the court sets aside an order of punishment, on the ground that the enquiry was not properly conducted, the court cannot reinstate the employee. It must remit the case concerned to the disciplinary authority for it to conduct the enquiry from the point that it stood vitiated, and conclude the same. (Vide ECIL v. B. Karunakar [ECIL v. B. Karunakar, (1993) 4 SCC 727 : 1993 SCC (L&S) 1184] , Hiran Mayee Bhattacharyya v. S.M. School for Girls [Hiran Mayee Bhattacharyya v. S.M. School for Girls, (2002) 10 SCC 293 : 2003 SCC (L&S) 1033] , U.P. State Spg. Co. Ltd. v. R.S. Pandey [U.P. State Spg. Co. Ltd. v. R.S. Pandey, (2005) 8 SCC 264 : 2006 SCC (L&S) 78] and Union of India v. Y.S. Sadhu [Union of India v. Y.S. Sadhu, (2008) 12 SCC 30 : (2009) 1 SCC (L&S) 126] .)"

25. Considering the aforesaid judgment and also the fact that the respondents herein only proposed to impose minor penalty against the petitioner, it will open to the Disciplinary Authority (if they so wishes) to pass a fresh order in terms of Rule 19 of the Jharkhand Government Servants (Classification, Control & Appeal) Rules, 2016 only after considering Rule 19(b) & (c) considering the representation of the petitioner by which he has denied the charges levelled against the him and gave his explanation and thereafter independently record a finding on each of the imputation of the misconduct or misbehavior and pass an appropriate order within a period of 08 weeks from the receipt of copy of this order.

26. With the aforesaid observations, this writ petition stands **allowed**.

27. Pending IAs, if any, stands disposed of.

(ANANDA SEN, J.)

22.01.2026
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