

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 479 of 2024

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Durga Charan Bauri, son of late Narayan Bauri, aged about 55 years, resident of village Huthupathar, P.O. & P.S. Chas, District-Bokaro (Jharkhand).

.... **Petitioner(s)**

-VERSUS-

1. The State of Jharkhand.
2. The Deputy Commissioner, Bokaro, P.O. & P.S. Bokaro, District-Bokaro.
3. The Additional Collector (Establishment), Bokaro, P.O. & P.S. Bokaro, District-Bokaro.
4. The Deputy Collector (Establishment), Bokaro, P.O. & P.S. Bokaro, District-Bokaro.

.....**Respondent (s)**

.....

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner(s) : Mrs. Rinku Bhagat, Adv

For the Respondent (s) : Mr. Divyam, A.C. to S.C.-IV

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16/04.05.2026

1. Heard learned counsel for the parties.
2. The instant writ application has been preferred by the petitioner for the following reliefs;

i) For quashing of Memo No.603 dated 14.12.2023 [Annexure-3] issued by the Deputy Commissioner, Bokaro whereby the application of petitioner has been rejected to reinstate in service in the light of judgement dated 16.10.2020 [Annexure-1] passed in WP(S) No.6436/2010 without application of mind, the order of dismissal has already been quashed and set aside by the Hon'ble High Court therefore the Deputy Commissioner, Bokaro should have passed a fresh order on application of petitioner in departmental proceeding after following the procedure of the departmental proceeding, whereas simply the Deputy Commissioner, Bokaro rejected the application of the petitioner which is against the principle of departmental proceeding and therefore the same liable to be set aside.

ii) For direction upon the respondents to pay all consequential benefits to petitioner after setting aside the Memo No.603 dated 14.12.2023 [Annexure-3] issued by the Deputy Commissioner, Bokaro.

iii) For direction upon the Respondent No.2 to make payment of all the salary to the petitioner for the period on and from 24.12.2006 till today which has not been paid to him after deduction of the suspension allowance amount which has been paid to him within this period.

iv) For direction upon Respondent No.2 to recall the order of dismissal of service of petitioner and pass a fresh order to allow the petitioner to join in service in accordance with law after following the principles of natural justice.

3. The brief facts of the case are that the petitioner has been working as a Peon since the year 1990 and his service was regularized in 2005. In 2006, a show cause notice was issued to him seeking an explanation regarding the allegation that the

educational documents submitted at the time of his appointment, specifically the School Leaving Certificate showing his qualification as Class VIII, were forged. Thereafter, he was directed to file his reply within 15 days of issuance of the said notice.

The petitioner contends that, in terms of Advertisement No. 27 dated 09.01.1999, he had submitted a School Leaving Certificate of Class VIII issued by the Headmaster of High School, Bokaro. Thereafter, a charge sheet with suspension order No. 1039 dated 23.12.2006 was served upon him, and departmental proceedings were initiated and an Inquiry officer was appointed. The petitioner submitted his reply on 02.03.2007, asserting that his Class VIII School Leaving Certificate was genuine.

He further filed an application under the RTI Act to verify the genuineness of the certificate from the school authority. Through RTI, he obtained the admission register wherein his name was entered at Sl. No. 157, with his date of birth recorded as 06.03.1968, duly certified by the Headmaster of High School, Bokaro. By Letter No. 02 dated 22.02.2007, the headmaster confirmed that the certificate was genuine.

Despite this, the Inquiry Officer failed to properly verify the genuineness of the certificate issued by High School, Bokaro. Subsequently, vide Memo No. 756 dated 23.09.2010, received by the petitioner on 01.10.2010, it was communicated that his services as Peon stood dismissed by order of the Deputy Commissioner, Bokaro, on the basis of the Inquiry report submitted by the second Inquiry Officer appointed by the respondents.

4. Mrs. Rinku Bhagat, learned counsel for the petitioner amongst other grounds has assailed the impugned order on

the ground that no oral witness has been examined in order to prove the charges levelled against the petitioner. She further referred to several judgments and submits that now the law is no more *res integra* that the department, in order to prove the charges, has to adduce oral evidence and merely presenting of evidence will not suffice and oral evidence in order to prove the documents/charges is a condition precedent and, on this score, alone the impugned order may be set aside.

5. Learned counsel for the respondents though oppose the prayer of the petitioner to quash the impugned order, but fairly submits that after going through the enquiry report, there is no reference of any oral witness. He further could not dispute the fact that oral evidence is necessary in order to prove the document.

6. Having regard to the aforesaid facts and circumstances of the case and after going through the materials on record disclosing the details of nature of charge and the enquiry proceeding, it clearly transpires that no oral evidence has been adduced in order to prove the document/charge against this petitioner.

7. The issue of examination of oral witness has been dealt repeatedly by the Hon'ble Apex Court right from the case of **Roop Singh Negi**¹ and further reiterated in the case of **Saroj Kumar Sinha**². However, it has been seen in many cases that the authorities have not yet understood the importance of oral evidence.

8. Yet again, in the case of **Satyendra Singh Vs. State of Uttar Pradesh and Another**³, the Hon'ble Apex Court has held as under:

¹ (2009) 2 SCC 570

² (2010) 2 SCC 772

³ 2024 SCC OnLine SC 3325

“**13.** This Court in a catena of judgments has held that the recording of evidence in a disciplinary proceeding proposing charges of a major punishment is mandatory. Reference in this regard may be held to *Roop Singh Negi v. Punjab National Bank*² and *Nirmala J. Jhala v. State of Gujarat*.¹⁰

14. In the case of *Roop Singh Negi*, this Court held that mere production of documents is not enough, contents of documentary evidence have to be proved by examining witnesses. Relevant extract thereof reads 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. We have noticed hereinbefore that the only basic evidence whereupon reliance has been placed by the enquiry officer was the purported confession made by the appellant before the police. According to the appellant, he was forced to sign on the said confession, as he was tortured in the police station. The appellant being an employee of the Bank, the said confession should have been proved. **Some evidence should have been brought on record to show that he had indulged in stealing the bank draft book. Admittedly, there was no direct evidence. Even there was no indirect evidence.** The tenor of the report demonstrates that the enquiry officer had made up his mind to find him guilty as otherwise he would not have proceeded on the basis that the offence was committed in such a manner that no evidence was left.

...

19. The judgment and decree passed against the respondent in *Narinder Mohan Arya case* [(2006) 4 SCC 713 : 2006 SCC (L&S) 840] had attained finality. In the said suit, the enquiry report in the disciplinary proceeding was considered, the same was held to have been based on no evidence. The appellant therein in the aforementioned situation filed a writ petition questioning the validity of the disciplinary proceeding, the same was dismissed. This Court held that when a crucial finding like forgery was arrived at on evidence which is non est in the eye of the law, the civil court would have jurisdiction to interfere in the matter. **This Court emphasised that a finding can be arrived at by the enquiry officer if there is some evidence on record. ...”**

(emphasis supplied)

15. Same view was reiterated in *State of Uttar Pradesh v. Saroj Kumar Sinha*, wherein, this Court held that even in an ex-parte inquiry, it is the duty of the Inquiry Officer to examine the evidence presented by the Department to find out whether the unrebutted evidence is sufficient to hold that the charges are proved. The relevant observations made in *Saroj Kumar Sinha* are as follows:—

“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 unrebutted 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.

....

33. As noticed earlier in the present case not only the respondent has been denied access to documents sought to be relied upon against him, but he has been condemned unheard as the inquiry officer failed to fix any date for conduct of the enquiry. **In other words, not a single witness has been examined in support of the charges levelled against the respondent. The High Court, therefore, has rightly observed that the entire proceedings are vitiated having been conducted in complete violation of the principles of natural justice and total disregard of fair play.** The respondent never had any opportunity at any stage of the proceedings to offer an explanation against the allegations made in the charge-sheet.”

(emphasis supplied)”

9. Recently, the same issue was raised before Hon’ble Apex Court in the case of **State of Uttar Pradesh through Principal Secretary, Department of Pachayati Raj, Lucknow Vs. Ram Prakash Singh**⁴ and the Hon’ble Apex Court after going through several of its previous judgment has reiterated the law as under:

“13. In *Roop Singh Negi v. Punjab National Bank*, it was held that an officer conducting an enquiry has a duty to arrive at findings in respect of the charges upon taking into consideration the materials brought on record by the parties. It has also been held therein that any evidence collected during investigation by an investigating officer against the accused by itself could not be treated to be evidence in the disciplinary proceedings.

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

⁴ 2025 SCC OnLine SC 891

authenticity. In the present case, no such exercise was undertaken by producing any witness.

15. We may further refer to the decision of this Court in *State of Uttar Pradesh v. Saroj Kumar Sinha*¹⁷ where disciplinary proceedings were drawn up against the respondent, Saroj Kumar Sinha, under the 1999 Rules itself with which we are concerned. Paragraphs 26 to 30 and 33 of the said decision being relevant are quoted below:

“26. The first inquiry report is vitiated also on the ground that the inquiry officers failed to fix any date for the appearance of the respondent to answer the charges. Rule 7(x) clearly provides as under:

‘7. (x) Where the charged government servant does not appear on the date fixed in the inquiry or at any stage of the proceeding in spite of the service of the notice on him or having knowledge of the date, the inquiry officer shall proceed with the inquiry ex parte. In such a case the inquiry officer shall record the statement of witnesses mentioned in the charge-sheet in absence of the charged government servant.’

27. A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.

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 unrebutted 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.

29. Apart from the above, by virtue of Article 311(2) of the Constitution of India the departmental enquiry had to be conducted in accordance with the rules of natural justice. It is a basic requirement of the rules of natural justice that an employee be given a reasonable opportunity of being heard in any proceedings which may culminate in punishment being imposed on the employee.

30. When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service.

33. As noticed earlier in the present case not only the respondent has been denied access to documents sought to be relied upon against him, but he has been condemned unheard as the inquiry officer failed to fix any date for conduct of the enquiry. In other words, not a single witness has been examined in support of the charges levelled against the respondent. The High Court,

therefore, has rightly observed that the entire proceedings are vitiated having been conducted in complete violation of the principles of natural justice and total disregard of fair play. The respondent never had any opportunity at any stage of the proceedings to offer an explanation against the allegations made in the charge-sheet.”

(emphasis ours)

16. *It appears that the appellant is yet to take lessons despite the admonition in Saroj Kumar Sinha (supra). The same kind of omissions and commissions that led to setting aside of the order of punishment imposed being upheld by this Court were repeated in the present case.”*

10. Even otherwise, in the instant case, the charge is of submitting forge “School Leaving Certificate”, and the Petitioner through RTI, had obtained the admission register wherein his name was entered at Sl. No. 157, with his date of birth recorded as 06.03.1968, duly certified by the Headmaster of High School, Bokaro. By Letter No. 02 dated 22.02.2007, the headmaster also confirmed that the certificate was genuine. In spite of the same, the petitioner has been dismissed, that too, without proving the documents.

11. Having regard to the above discussion, the instant writ application deserves to be allowed and accordingly, Memo No. 603 dated 14.12.2023 (Annexure-3), is hereby, quashed and set aside.

12. The Respondents are directed to reinstate the petitioner in service forthwith and pay all consequential benefits.

13. Accordingly, the instant writ application stands allowed. Pending I.A., if any, also stands closed. No cost.

(Deepak Roshan, J)

04.05.2026

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