

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No.479 of 2022

Sushil Kumar, son of Shri Vishwanath Prasad, resident of Hans Niwas,
Harna Kundi Road, Dumka, P.O. & P.S. Dumka, District Dumka.

... .. **Petitioner**

Versus

1. The State of Jharkhand, through the Secretary / Principal Secretary, School Education and Literacy Department, having office at MDI Building, Dhurwa, P.O. & P.S. Dhuruwa, Town and District Ranch.
2. Joint Secretary to Government, School Education and Literacy Department, Government of Jharkhand, having office at MDI Building, Dhurwa, P.O. & P.S. Dhuruwa, Town and District Ranch.
3. Under Secretary to Government, School Education and Literacy Department, Government of Jharkhand, having office at MDI Building, Dhurwa, P.O. & P.S. Dhuruwa, Town and District Ranch.

... .. **Respondents**

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Ms. Shivani Bhardwaj, Advocate
For the Respondent(s): Mr. Suresh Kumar, SC (L & C)-II

09/ 22.01.2026

By filing this writ petition, the petitioner has sought for following reliefs:-

- "(i) *To quash and set aside the Notification contained in Memo No.2583 dated 23.12.2021 (Annexure-6) issued under the pen and signature of respondent no.3, whereby and whereunder, the penalty of stoppage of two increments with cumulative effect has been imposed upon the petitioner.*
- (ii) *To also quash and set aside the enquiry report submitted by the Enquiry Officer dated 24.7.20 (Annexure-3).*
- (iii) *During the pendency of the present writ petition, the operation, execution and implementation of the impugned Notification contained in Memo No.2583 dated 23.12.2021 (Annexure-6) may kindly be stayed."*

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

3. Ms. Shivani Bhardwaj, learned counsel representing the petitioner, submits that without following the provision of law and without there being any oral evidence, the petitioner has been punished in a departmental proceeding. She submits that the Enquiry Officer relied upon some documents but surprisingly those documents were not brought on record as per law nor their contents were brought on record. She submits that some of the allegations levelled against the petitioner, which are absolutely factual in nature should have been proved by oral evidence, but in the instant case no person was produced before the Enquiry Officer to prove the charge.

4. Mr. Suresh Kumar, learned SC (L & C) -II, representing the respondent – State, after going through the records submits that there are sufficient materials in proof of misconduct of the petitioner. He submits that in the departmental enquiry, the Enquiry Officer relied upon the documents but he admits that there is nothing in record to suggest that any oral evidence was ever adduced. He also submits that since there was a procedural lapse, the matter be remanded to the Authorities for a fresh enquiry.

5. Facts of this case are as follows:-

5.1. The petitioner at the relevant time was holding the post of District Education Officer, Palamau.

5.2. The petitioner was proceeded against departmentally. The gist of charge (total six charges) against the petitioner is as follows:-

“ 1. स्कूली शिक्षा एवं साक्षरता विभाग, झारखंड, राँची के अधीन
जिला शिक्षा पदाधिकारी पलामू के पद पर पदस्थापित रहने
के दौरान श्री कुमार द्वारा नियम विरुद्ध सुश्री स्वधा निकी का

प्रतिनियोजन एवं स्थानांतरण किया जाना।

2. *म० वि० हुसैनाबाद के प्रधानाध्यापक को दुर्भावना से ग्रसित होकर निलंबित करना।*
3. *संचिकाओं के निष्पादन में नियम प्रक्रिया का उल्लंघन करना एवं अनावश्यक टिप्पणी दर्ज करना तथा रिश्त की मानसिकता से कार्य करना।*
4. *विद्यालय भवन निर्माण से संबंधित राशि निर्गत करने में भेदभाव करना।*
5. *सरकारी कार्य के निष्पादन में संवेदनहीनता बरतना एवं अधीनस्थ कर्मियों के साथ दुर्यवहार करना*
6. *श्री कुमार का उक्त कार्य उनके पूर्ण शीलनिष्ठा एवं कर्तव्य के प्रति निष्ठा में अभाव को प्रदर्शित करता है। यह सरकारी सेवक आचार नियमावली के नियम 3(1)(1) एवं (ii) के प्रतिकूल आचरण है। "*

5.3. The charge-sheet was issued to the petitioner vide Memo No.3026 dated 26.09.2019.

5.4. An Enquiry Officer was appointed who enquired into the charges levelled against the petitioner.

5.5. The petitioner refuted the charges by giving a detailed reply and also named several persons and requested the Enquiry Officer to call them as witness in support of his innocence.

5.6. On completion of enquiry, the Enquiry Officer submitted its report dated 24.07.2020 (Annexure-3 to the writ petition). He arrived at a conclusion that all the aforesaid six charges against the petitioner are found to be proved.

5.7. Thereafter based on enquiry report of the Enquiry Officer, the respondents vide impugned Notification as contained in Memo No.2583 dated 23.12.2021 (Annexure-6 to the writ petition),

inflicted punishment upon the petitioner withholding two increments with cumulative effect (major punishment). The said order is under challenge in this writ petition.

6. After going through the enquiry report, I find that the Enquiry Officer solely relied upon the documents to arrive at a conclusion that the charges levelled against the petitioner stand proved. From the records, it is also clear that there is no person who has been produced as witness either to prove the documents or its contents.

7. This Court in ***W.P.(S) No.2076 of 2021 (Shyam Nath Dube Vs. The State of Jharkhand & Ors.)*** (pronounced on 15.01.2026), while allowing the said writ petition, relied upon the judgments of the Hon'ble Supreme Court rendered in the cases of ***State of U.P. & Ors. Vs. Saroj Kumar Sinha*** reported in ***(2010) 2 SCC 772***; ***Bareilly Electricity Supply Co. Ltd. Vs. The Workmen & Ors.*** reported in ***(1971) 2 SCC 617***; ***Roop Singh Negi Vs. Punjab National Bank & Ors.*** reported in ***(2009) 2 SCC 570***; and ***State of Uttar Pradesh through Principal Secretary, Department of Panchayati Raj, Lucknow Vs. Ram Prakash Singh*** reported in ***2025 SCC OnLine SC 891***; wherein it has been held that the documents placed before the Enquiry Officer in an enquiry proceeding, must be proved as per law by examining the witnesses.

8. A document does not prove by itself. Merely annexing a document along with the charge-sheet and not proving the contents thereof is not sufficient to prove the charge in a departmental

proceeding. The document itself cannot be treated to be an evidence until and unless the same is proved in the enquiry proceeding. It is necessary to quote para-14 of the judgment of the Hon'ble Supreme Court in the case of **Roop Singh Negi** (*supra*), which reads as hereunder:-

"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."

9. In this case, admittedly there is no oral evidence to prove the documents or the contents thereof. Thus, this case is covered by the principles laid down by the Hon'ble Supreme Court in the case of **Roop Singh Negi** (*supra*) and other judgments referred hereinabove.

10. Further, in this case admittedly the petitioner has superannuated, thus there is now no relationship of employer – employee between the petitioner and the respondents. The allegations levelled in the charge-sheet is also not one which comes within the ambit of Rule 43 (b) of the Jharkhand Pension Rules, which provides that a proceeding can be initiated even after retirement but on the conditions laid down therein. In this case, there is no loss to the Government exchequer and the misconduct is also not such

grave nor it involves moral turpitude. Thus, it will not be proper to relegate the matter back to the Disciplinary Authority to initiate proceeding afresh.

11. Considering the aforesaid facts and circumstances of this case, the impugned order of punishment bearing Notification as contained in Memo No.2583 dated 23.12.2021 (Annexure-6 to the writ petition), is hereby quashed and set aside. The petitioner is entitled for all the consequential benefits. Thus, his pension along with all consequential benefits and retiral benefits be disbursed to him within a period of eight weeks from the date of receipt of copy of this order.

12. With the aforesaid observation and direction, this writ petition stands **allowed**. No order as to costs.

13. Pending interlocutory application, if any, stands **disposed of**.

(ANANDA SEN, J.)

*22nd January, 2026
Prashant. Cp-2*

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