

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 1204 of 2022

Rabindra Nath Mishra, son of late Lila Dhar Mishra, resident of village and
P.O Hariharpur, P.S. Kamtoul, District- Darbhanga (Bihar) .. Petitioner(s)
Versus

1. The State of Jharkhand.
2. The Director General-cum-Inspector General of Police, Jharkhand, Ranchi, Project Building, Dhurwa, Ranchi.
3. The Deputy Inspector General of Police, Jharkhand Armed Police, at Project Building, Dhurwa, Ranchi.
4. The Commandant, Jharkhand Armed Police-4, Bokaro, P.O and P.S- B.S. City, District- Bokaro. ...Respondent(s)

CORAM : SRI ANANDA SEN, J.

For the petitioner(s): M/s A.K. Sahani and Ajit Kumar, Advocates.
For the State Mr. Divyam, AC to SC-IV

08/22.01.2026: Heard the parties.

2. In this writ petition, the petitioner has prayed for quashing the appellate order as contained in Memo No. 1287 dated 13.8.2013 (Annexure-6) passed by respondent No. 2 and the order of punishment as contained in Memo No. 445 dated 3.3.2013 (Annexure-4) passed by respondent No. 4, whereby the petitioner has been imposed a punishment of withholding of two annual increments with cumulative effect, which is equivalent to three black marks.

3. The petitioner was appointed on 23.6.1981 on the post of constable in the undivided State of Bihar in Bihar Military Police and he was promoted on the post of Hawaldar in November, 1996. He was again promoted to the post of Sub-Inspector in December 2004 and in the year 2014, he was promoted to the post of Subedar. On 27.7.2011, vide memo No. 2044, respondent No. 4 issued a chargesheet against the petitioner on the allegation of receiving 15% Training Allowance during the period from 5.7.2009 to 7.8.2009, 19.11.2009 to 9.12.2009 and 2.2.2010 to 26.2.2010. Thereafter the petitioner submitted his explanation denying the allegation relying upon the Circular as contained in Memo No. 10251 dated 26.8.1958, whereby the Chief Secretary of the State of Bihar requested not to entertain the allegation based upon anonymous letter. The Enquiry Officer submitted his report observing that the petitioner was not entitled to training allowance, but he received the same. Thereafter, respondent No. 4 imposed a punishment of withholding of two annual increments with cumulative effect, equivalent to three black marks. Thereafter, the petitioner preferred an appeal, which was also dismissed by the respondent No. 3 vide impugned order as contained in Memo No. 1287 dated 13.8.2013.

4. Learned counsel for the petitioner submits that the the impugned order are unjust, improper and against the principle of natural justice. He submits that no documents were supplied to the petitioner before imposing the punishment. He also submits that any anonymous petition should not have been the basis of the inquiry and the enquiry report is thus vitiated due to non-compliance of required rules. He lastly submits that the punishment is too harsh.

5. Per contra, learned counsel for the State submits that the Disciplinary Authority issued letter vide Memo No. 125 dated 27.6.2011 asked for an explanation regarding receiving 15% training allowance during the training period and on the request of the petitioner, the Disciplinary Authority supplied relevant documents as per his application and again issued letter vide Memo No. 148 dated 12.7.2011 asking explanation regarding receiving 15% training allowance during the training period. Thereafter a Departmental Proceeding was initiated against the petitioner vide Departmental Proceeding No. 4 of 2011. He further submits that the Enquiry Officer, who was appointed, submitted a report, finding the charges proved against the petitioner. He also submits that the Commandant after receiving the enquiry report and considering the material on record as well as the enquiry report, issued the second show cause to the petitioner vide memo No. 203 dated 2.2.2013. Thereafter, the punishment order was passed, which was confirmed in appeal also, thus the impugned orders cannot be quashed and set aside. He lastly submits that there is no procedural illegality or irregularity in the entire process.

6. After hearing the parties and after going through the entire record, I find that a Departmental Proceeding being D.P. No. 04/2011 was initiated against the petitioner in which, an Enquiry Officer was appointed, who submitted the enquiry report. The Commandant, after receiving the enquiry report and considering the materials on record, issued the second show cause to the petitioner vide memo No. 203 dated 2.2.2013. Thereafter the order of punishment was passed vide Memo No. 445 dated 3.3.2013, which was confirmed by the Appellate Authority in Appeal on 13.8.2013.

7. In a departmental proceeding, the scope of interference under Article 226 of the Constitution of India is very limited. This Court does not sit as an Appellate Authority to re-appreciate the evidence and materials.

8. The Hon'ble Supreme Court in the case of **Director General of Police, Railway Protection Force and Others versus Rajendra Kumar Dubey** reported in **2020 SCC OnLine SC 954** at paragraph 21.1 thereof, has held that it is well settled that High Court cannot act as an Appellate Authority

and re-appreciate the evidence, which was led before the Enquiry Officer. By referring to judgment in the case of **State of Andhra Pradesh Vs. S. Sree Rama Rao [1963 AIR SC 1723]**, the Hon'ble Supreme Court has held that it is not the function of the High Court to review the findings and arrive at a different finding. In a departmental proceeding, scope is very limited and it is well settled that the High Court can interfere where the departmental authority has acted against the principles of natural justice or where the findings are based on no evidence or in violation of the statutory rules provided. Further, if the punishment imposed is excessive, the Court can also interfere. It has also been held by the Hon'ble Supreme Court that under Article 226 and 227 of the Constitution of India, the High Court shall not:-

- (i) re-appreciate the evidence;
- (ii) interfere with the conclusions in the enquiry, in the case the same has been conducted in accordance with law;
- (iii) go into the adequacy of the evidence;
- (iv) go into the reliability of the evidence;
- (v) interfere, if there be some legal evidence on which findings can be based;
- (vi) correct the error of fact however grave it may appear to be;
- (vii) go into the proportionality of punishment unless it shocks its conscience.

9. In this case, I find that there is no procedural illegality or irregularity committed by the employer while conducting the departmental proceeding. The Enquiry Officer also acted properly while conducting the enquiry and submitting the report. The charges thus were proved. There is no material before me to disagree with the aforesaid finding on the ground of perversity or on the ground of "No Evidence".

10. In the Departmental Proceeding, the charge against the petitioner is that he has allegedly received 15% training allowance, while he was posted as Reserve Sub-Inspector (Training) at Jharkhand Armed Police, Bokaro. He received this allowance when the training was suspended i.e. 32 days from July 5, 2009 to August 7, 2009; 30 days i.e. from November 19, 2009 to December 9, 2009; and 24 days i.e. from February 2, 2010 to February 26, 2010, even though he was himself posted as a Reserve Officer during these periods.

From the Enquiry Report, I find that during the enquiry, the Enquiry Officer found that the petitioner was on Law-and-Order duty at Kanthithand between 06.12.08 to 09.12.08 (for 3 days), at Chaibasa between 19.01.09 to 26.01.09 (for 12 days); at Giridih between 07.01.09 to 09.01.09 (for 3 days) and 07.03.09 to 13.03.09 (for 7 days); at Bokaro between 13.11.05 to 20.11.08 (for 7 days),

09.02.09 to 15.02.09 (for 7 days) and 26.12.09 to 30.12.09 (for 5 days); at Deoghar between 05.07.09 to 07.08.09 (for 32 days) and at Dhanbad for 11 days.

Further, he was on by-election duty at Tamar between 23.12.08 to 30.12.08 and on election duty at Bokaro between 19.11.09 to 09.12.09 (for 30 days) and between 15.06.10 to 19.06.10 (for 4 days). He was on duty of trainer at Netarhat between 02.02.10 to 26.02.10 (for 24 days) and on Durga Puja law and order at Bokaro for 8 days in October, 2010. Thus, the enquiry officer found that the acceptance of 15% Training Allowance by the petitioner is absolutely illegal, as the said allowance is only payable to the Instructor, who directly imparting training to the Trainees in external or internal classes, but the petitioner was only performing the office related work to the trainees or was on election duty or on law and order duty at the relevant time.

11. So far as the quantum of punishment is concerned, the prerogative to punish the delinquent-employee is of the employer. The quantum of punishment must be assessed by the employer and it is not the Court who can substitute its view.

12. The Hon'ble Supreme Court in the case of **Lucknow Kshetriya Gramin Bank v. Rajendra Singh** reported in **(2013) 12 SCC 372**, at para-19, has held as hereunder:-

"19. The principles discussed above can be summed up and summarised as follows:

19.1. When charge(s) of misconduct is proved in an enquiry the quantum of punishment to be imposed in a particular case is essentially the domain of the departmental authorities.

19.2. The courts cannot assume the function of disciplinary/departmental authorities and to decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority.

19.3. Limited judicial review is available to interfere with the punishment imposed by the disciplinary authority, only in cases where such penalty is found to be shocking to the conscience of the court.

19.4. Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.

19.5. The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of

misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent accepts the charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable.”

13. Considering what has been held above, the respondents deemed it fit to punish the petitioner, thus I find no reason to interfere with the order of punishment as the punishment imposed commensurates with the proved charge.

14. With the aforesaid observations, this writ petition stands **dismissed.**

22nd January, 2026

Anu-Cp2./ A.F.R.

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(ANANDA SEN, J.)