

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 1410 of 2022

Anil Kumar, son of late Nonu Narayan Singh, at present posted as an ASI,
Rajmahal, P.O and P.S. Rajmahal, District- Sahibganj. .. Petitioner(s)

Versus

1. The State of Jharkhand.
2. The Director General-cum-I.G. of Police, Jharkhand, office at Police House, Dhurwa, Ranchi.
3. The Deputy Inspector General of Police, Santhal Pargana Region, Dumka.
4. The Superintendent of Police, Sahibganj. ...Respondent(s)

CORAM : SRI ANANDA SEN, J.

For the petitioner(s): Mr. Pradeep Kumar, Advocate.
For the State Mr. Divyam, AC to SC-IV

06/22.01.2026: Heard the parties.

2. By filing this writ petition, the petitioner has prayed for setting aside the punishment order as contained in memo No. 154 dated 10.1.2021 passed by respondent No. 4, whereby, increment was forfeited for six months and also to set aside the order as contained in memo No. 1410 dated 12.5.2021 passed by the respondent No. 3, whereby the appeal of the petitioner has been dismissed.

3. The petitioner was appointed in the rank of Constable in the year 1987 and he was promoted to the post of A.S.I. While the petitioner was posted as ASI at Sahibganj, in the year 2019, one Departmental Proceeding No. 40/2020 was initiated against him on the basis of supervision Note of SDPO, Sahibganj in Town P.S. Case No. 250/2019, which is not properly investigated by the petitioner and the investigation of this case is pending since long. The petitioner submitted his explanation. Thereafter the charge has been framed against the petitioner. The Departmental Proceeding was conducted. After the enquiry, the Enquiry Officer submitted his report. Thereafter, punishment order as contained in Memo No. 154 dated 10.1.2021 was passed against the petitioner. Thereafter the appeal which was been preferred by the petitioner, was also dismissed by the Appellate Authority vide order as contained in Memo No. 1410 dated 12.5.2021.

4. Learned counsel for the petitioner submits that the the impugned orders are unjust, improper and against the principle of natural justice as in the Departmental Proceeding the witnesses were examined behind the back of the petitioner. He submits that the petitioner has not given chance to cross-examine the witnesses, which is against the Police Manual Rule 828 read with Appendix-49. He also submits that the Departmental Proceeding was initiated on the basis

of the report of the SDPO, Sahibganj, but the Conducting Officer has not examined the SDPO, Sahibganj as a witness and no opportunity was given to the delinquent to cross-examine the said witness. He further submits that on the basis of *post facto* Inquiry Report without examining the complainant, no one can be punished. He lastly submits that in this Departmental Proceeding, the principle of natural justice has been violated and on this basis, the orders impugned should be quashed and set aside. He lastly submits that the punishment is too harsh.

5. Per contra, learned counsel for the State submits that the Departmental Proceeding was rightly initiated against the petitioner. He further submits that the Enquiry Officer, who was appointed, submitted the report, finding the charges proved against the petitioner. He also submits that adequate opportunity was given to the petitioner to cross-examine the witnesses. He further submits that the charge levelled against the petitioner is proved by oral and documentary evidences, thus the impugned orders of punishment cannot be said to be illegal and unjust as well as against the principle of natural justice. He also submits that the punishment order has also been affirmed by the appellate authority in appeal, preferred by the petitioner. 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. 40/2020 was initiated against the petitioner in which, an Enquiry Officer was appointed, who submitted the enquiry report. After receiving the enquiry report and considering the materials on record, second show cause was issued to the petitioner. Thereafter the order of punishment was passed, which was confirmed by the Appellate Authority in appeal, preferred by the petitioner.

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 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. Further, It is the submission of the petitioner that no opportunity of hearing was given to the petitioner but I find from the counter affidavit that proper opportunity of hearing was given and the petitioner was also given opportunity to cross-examine the witnesses. Thus, there is no procedural illegality committed by the respondent.

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 same commensurates with the proved charge.

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

22nd January, 2026
AFR-Anu-Cp2.

(ANANDA SEN, J.)

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