

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.S No. 2319 of 2021

Khantar Harijan, aged about 62 years, S/o Late Tilo Das, R/o Village Dimaha, P.O. Dimaha, P.S. Gopalpur, District - Bhagalpur & PIN - 853204 (Bihar).
...Petitioner(s).

Versus

1. The State of Jharkhand;
2. The Director General of Police, Jharkhand officiating at Project Building, HEC Township, P.O., P.S. Dhurwa & District - Ranchi.
3. The Inspector General of Police (Training), Jharkhand officiating at Project Building, HEC Township, P.O., P.S. Dhurwa & District - Ranchi.
4. The Deputy Inspector General of Police, South Chotanagpur Division, Ranchi having office near Mecon, P.O., P.S. Doranda & District – Ranchi.
5. The Superintendent of Police, Lohardaga, P.O., P.S. & District - Lohardaga.
...Respondent(s).

PRESENT

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Mr. Chanchal Jain, Advocate
 For the State : Mr. Indranil Bhaduri, SC

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ORDER

Reserved on 15.09.2025

Pronounced on 30 .10.2025

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

- a. *For issuance of appropriate writ(s)/order(s)/direction(s) in the nature of certiorari quashing the memo no. 4465 dated 12.08.2018 passed in Departmental Proceeding No. 18/17 by the disciplinary authority (respondent no. 5) through which 72 days salary of the petitioner has been withheld on the principles of "No Work No Pay" and the said period has been treated as "Extra Ordinary Leave", which is out an out illegal, wrong and against the Statutory Rules in view of the fact that the petitioner was not medically & physically fit to perform duty in discipline force, penalty inflicted upon the petitioner is not prescribed in Rule 843 vis-a-vis Rule 824 of the Police Manual and Earned Leave was available to the petitioner.*
- b. *For issuance of appropriate writ(s)/order(s)/direction(s) in the nature of certiorari quashing the memo no. 600 dated 31.01.2019 issued by the*

respondent no. 5 through which earlier memo no. 4465 dated 12.08.2018 was modified to the extent that 73 days salary has been withheld instead of 72 days.

- c. For issuance of appropriate writ(s)/order(s)/direction(s) in the nature of certiorari quashing the memo no. 349 dated 08.02.2019 wrongly mentioned as dated 08.02.2018 through which the appellate authority (respondent no. 4) has dismissed the appeal without application of mind and the appellate order is nothing but exact reiteration of the enquiry report and punishment order.*

2. The petitioner while serving as a Sub-Inspector, in 2016–2017, faced serious issues related to eyes. He applied for earned leave for one month from 16.01.2017 to 15.02.2017 and underwent surgeries of both eyes. As he overstayed, an enquiry was conducted and on the basis of the enquiry report a Departmental Proceeding being Departmental Proceeding No. 18 of 2017 was initiated against him for overstaying for 72 days. The petitioner was served with a charge memo dated 18.07.2017. The petitioner filed a detailed reply on 02.10.2017 but the petitioner was found guilty of the charges vide memo dated 10.08.2018 by the Enquiry Officer. The Enquiry Officer submitted his report and after considering the enquiry report the Disciplinary Authority vide memo no. 4465 dated 12.08.2018 punished the petitioner and his salary for this period was withheld, and the leave was treated as “Extraordinary Leave” under the principle of “No Work, No Pay.”

3. Learned counsel for the petitioner submits that the Enquiry Officer and Disciplinary Authority passed orders without proper consideration of the medical documents and their findings were without independent reasoning. He further submits that the Disciplinary and Appellate authority’s orders do not contain any individual findings against the petitioner; they simply repeat the enquiry report with slight changes/modifications. He also submits that the petitioner’s salary for the leave period was wrongly withheld and was unjust because the petitioner was

genuinely unfit for duty due to medical reasons and had earned leave available in his credit. The punishment imposed is not as per Rule 843 and Rule 824 of the Police Manual. He further submits that the authorities ignored the medical prescription dated 13.10.2018, which clearly stated that the petitioner needed four weeks of rest.

4. The learned counsel for respondents submits that the petitioner was granted 30 days earned leave from 16.01.2017 and was expected to rejoin duty on 16.02.2017. However, he did not return on time and overstayed without prior approval. As a result, his salary was withheld. He further submitted that an enquiry was conducted, during which Dr. Sagar Bhargava confirmed the petitioner had undergone surgery on his left eye but stated that his right eye was fine and he could read and write. His leave application was not approved and was rejected, but he still did not return to duty and he had already overstayed without permission. He also submits that the petitioner returned after being absent for 72 days without approved leave and the department viewed this as deliberate indiscipline and violation of rule justifying departmental action. Therefore, the petitioner is not entitled to any relief in the present writ petition.

5. From the argument of both the parties and the facts, I find that the petitioner was granted earned leave of 30 days and he had to join on 16.02.2017 but he overstayed due to which the Departmental Proceeding was initiated. It is the contention of the petitioner that on 16.02.2017 the petitioner had sent an application seeking leave. The said application was received but was not accepted, despite that the petitioner did not join and filed another application which was received on 01.04.2017 in which the petitioner prayed to grant leave of 30 days from 16.03.2017 to 15.04.2017. This application was also not approved. Even if this application was approved, he had to join on 16.04.2017 but he overstayed for 72 days without any approval or permission and joined his duty only on 30.04.2017, thus it is clear that he overstayed without any authority.

6. Further the Disciplinary Proceeding was conducted in a fair manner as he was given opportunity to file his reply and during the Disciplinary Proceeding adequate opportunity of hearing was also given to him. Further I find that after considering all the aspects the enquiry officer had come to a conclusion that the charge of unauthorized absence/overstaying was proved against the petitioner. Based on the report of the Enquiry Officer the Disciplinary Authority has punished the petitioner. Thus, I find no procedural illegality or irregularity committed in the entire process of the Disciplinary Proceeding.

This Court while exercising jurisdiction under Article 226 cannot act as an Appellate Court. Under Article 226 of the Constitution, this Court cannot reappreciate evidence. The Hon'ble Supreme Court in the case of "**Director General of Police, Railway Protection Force and Others vs Rajendra Kumar Dubey**" reported in (2021) 14 SCC 735 has held as under:

"21.1. We will first discuss the scope of interference by the High Court in exercise of its writ jurisdiction with respect to disciplinary proceedings. It is well settled that the High Court must not act as an appellate authority, and reappreciate the evidence led before the enquiry officer. We will advert to some of the decisions of this Court with respect to interference by the High Courts with findings in a departmental enquiry against a public servant.

21.2. In *State of A.P. v. S. Sree Rama Rao* [*State of A.P. v. S. Sree Rama Rao*, AIR 1963 SC 1723] , a threeJudge Bench of this Court held that the High Court under Article 226 of the Constitution is not a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant. It is not the function of the High Court under its writ jurisdiction to review the evidence, and arrive at an independent finding on the evidence. The High Court may, however, interfere where the departmental authority which has held the proceedings against the delinquent officer are inconsistent with the principles of natural justice, where the findings are based on no evidence, which may reasonably support the conclusion that the delinquent officer is guilty of the charge, or in violation of the statutory rules prescribing the mode of enquiry, or the authorities were actuated by some extraneous considerations and failed to reach a fair decision, or allowed themselves to be influenced by irrelevant considerations, or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion. If, however, the enquiry is properly held, the departmental authority is the sole judge of facts, and if there is some legal evidence on which the findings can be based, the adequacy or

reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a writ petition.”

In view of the judgement of the Hon’ble Supreme Court and the fact of this case the finding in the Disciplinary Proceeding cannot be interfered by this court.

7. Further the scope of interference in punishment order is also limited. It can only be interfered with when the punishment imposed is disproportionate to the proved charge,

The Hon’ble Supreme Court in the case of “**Lucknow Kshetriya Gramin Bank v. Rajendra Singh**” reported in (2013) 12 SCC 372 has held at paragraph Nos.19, 19.1, 19.2, 19.3, 19.5 and 19.5 as follows:

“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.”

8. In view of the judgment of Hon’ble Supreme court and the fact of this case I am of the opinion that the misconduct has been proved and the

punishment inflicted upon him cannot be said to be disproportionate to the proved charge as the petitioner is in a disciplined force.

9. In view of what has been held above, this writ petition is **dismissed**.

(ANANDA SEN, J.)

High Court of Jharkhand, Ranchi
Dated: 30 .10.2025
Sandeep/
A.F.R.