

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 2905 of 2022

PAWAN TOPPO, aged about 58 Years, son of Bothem Toppo, resident of Kathaltoli, Church Road, Ranchi, P.O. and PS Lower Bazar, District Ranchi (Jharkhand) and at present posted Additional Public Prosecutor, Dumka, P.O., P.S. and District-Dumka. **Petitioner(s)**

-VERSUS-

1. The State of Jharkhand
2. The Principal Secretary, Department of Home, Prison & Disaster Management, having its office at Project Bhawan, Dhurwa, P.O. Dhurwa, P.S. Jagannathpur, District Ranchi
3. The Director, Prosecution, Directorate of Prosecution, Department of Home, Prison & Disaster Management, having its office at Project Bhawan, Dhurwa, P.O. Dhurwa, P.S. Jagannathpur, District Ranchi
4. The Deputy Commissioner, Pakur, P.O. and P.S. Pakur, District Ranchi. **.....Respondent (s)**

CORAM: **HON'BLE MR. JUSTICE DEEPAK ROSHAN**

For the Petitioner(s) : Mr. Vineet Rohit Marki, Adv
 For the Respondent (s) : Mr. Divyam, A.C. to S.C.-IV

28/04.05.2026

1. Heard learned counsel for the parties.
2. The instant writ application has been preferred by the petitioner for the following reliefs;
 - (i) *For issuance of appropriate writ(s), order(s), and/or direction, including a writ in the nature of Certiorari for quashing order of punishment contained in Notification No. 1736 dated 27.04.2022 (Annexure-6 to the writ application), by which warning has been awarded to the petitioner and consequently period of suspension has been treated as on duty with further direction that nothing shall be paid to the petitioner for the period of suspension who was suspended on 13.02.2018, except subsistence allowance already paid and the said order of punishment is contrary to the resolution no. 1733 dated 27.04.2022 by which only warning has been awarded;*
 - (ii) *For issuance of appropriate writ(s), order(s), and/or of direction, including a writ in the nature Mandamus commanding the respondents to immediately and forthwith release full salary of the petitioner for the period of suspension i.e. from 13.02.2018*

to 27.04.2022 as only 50% subsistence allowance has been paid, though in terms of Rule 10(a) of Jharkhand Government Servant(Classification, Control and Appeal) Rules, 2016 which deals regarding enhancement of subsistence allowance after 12 months of suspension which has not been enhanced in the case of the petitioner as warning is not a punishment;

(iii) For grant of any other appropriate relief(s) to which the petitioner is legally entitled for doing conscionable justice to him in the facts and circumstances of the case.

3. The brief facts of the case are that the petitioner was appointed as Assistant Public Prosecutor in 1999 and served at various postings until his retirement in 2024. He was suspended on 13.02.2018, and charges were framed after 91 days. The petitioner submitted a detailed reply denying the allegations; however, the disciplinary proceeding remained pending for several years, and no enquiry report was ever served upon him. Subsequently, by Resolution and Notification dated 27.04.2022, he was awarded a warning after a delay of 1534 days from the date of suspension, while the suspension period was treated as “on duty” with entitlement limited to the subsistence allowance already paid. It is further noted that the Enquiry Officer was appointed after significant delay, namely 612 days from the suspension and 437 days from the framing of charges.

4. Having heard learned counsel for the parties and after going through the impugned order, it appears that one of the punishments imposed upon the petitioner was a warning. The second punishment was that, after the period

of suspension, he would be posted at a particular post. Furthermore, another punishment was imposed with regard to non-payment of full salary.

5. In view of Rules 97(1) of Jharkhand Service Code, 2001, the petitioner was held entitled to subsistence allowance during the entire period of suspension.

6. In this regard, upon query by the State counsel as to whether a separate notice under Rule 97 was issued to the petitioner or not; it has been informed that as per his instruction, no such notice has been given with regard to that period.

7. Having regard to the aforesaid submission and in the absence of document available on record, this Court is of the view that the matter should be remitted to the concerned authority only with respect to passing of the order under Rule 97 of Jharkhand Service Code, 2001 in accordance with prescribed procedure and after issuing notice to the petitioner.

8. Hence, the instant writ application deserves to be allowed partially. Accordingly, the order of punishment (Annexure-6) is modified to the extent that the order of not giving full salary to the petitioner during the entire period of suspension is quashed and set aside. The respondents'

authorities shall be at liberty to issue a notice under Rule 97 (1) with respect to the passing of an order regarding payment of full salary/subsistence allowance, and after considering the petitioner's reply, they shall pass an appropriate order in accordance with law.

9. It is made clear that if the Respondent authorities does not pass a fresh order w.r.t. Rule-97(1) of Jharkhand Service Code, 2001 in accordance with prescribed procedure and after issuing notice to the petitioner within a period of 8 weeks from the date of receipt of copy of this order; then it would be presumed that the Respondents are not interested in the fresh proceeding under Rule-97(1) of Jharkhand Service Code, 2001; in such circumstances the petitioner shall be entitled for the entire monetary benefits after a lapse of the aforesaid stipulated period.

10. Accordingly, the instant writ application is party allowed. Pending I.As. if any, also stands disposed.

(Deepak Roshan, J)

04.05.2026

Amardeep/

Uploaded on
15.05.2026