

IN THE HIGH COURT OF JHARKHAND AT RANCHI

WP(S) No.5906 of 2025

Rahul Srivastava, son of late Desh Deepak Srivastava, resident of Lajpatnagar, PO and PS Argora, District Ranchi

... Petitioner(s).

Versus

1.The State of Jharkhand through the Chief Secretary, Government of Jharkhand, Project Building, PO and PS Dhurwa, District Ranchi, Jharkhand

2.The Principal Secretary, Drinking Water & Sanitation Department, Govt. of Jharkhand, Nepal House, PO and PS Doranda, District Ranchi, Jharkhand

3.The Special Secretary, Drinking Water & Sanitation Department, Govt. of Jharkhand, Nepal House, PO and PS Doranda, District Ranchi, Jharkhand

4.The Joint Secretary, Drinking Water & Sanitation Department, Govt. of Jharkhand, Nepal House, PO and PS Doranda, District Ranchi, Jharkhand

5.The Chief Engineer-cum-Executive Director, Programme Management Unit, Rajya Jal Evam Swachchata Mission, Govt. of Jharkhand, Nepal House, PO and PS Doranda, District Ranchi, Jharkhand

... Respondent(s).

CORAM : SRI ANANDA SEN, J.

For the Petitioner(s) : Mr. Rahul Kumar, Advocate

For the State : Mr. Ankit Kumar, AC to SC-I

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02 /30.10.2025: Heard learned counsel for the petitioner and learned counsel for the respondents.

2. Learned counsel appearing for the petitioner submits that though the punishment which has been imposed upon the petitioner is minor in nature but the reply to the show cause filed by the petitioner has not been considered. It is his contention that there is violation of Rule 19 of the Jharkhand Government Servants (Classification, Control & Appeal) Rules, 2016. The disciplinary authority has not considered the aforesaid provision of law and the reply of the petitioner, and without application of mind has passed the order of punishment. He lastly submits that in terms of Rule 19

of the Jharkhand Government Servants (Classification, Control & Appeal) Rules, 2016 the Disciplinary Authority has to consider the representation and record a finding on each of the imputation on misconduct, which is missing in this case, making the order bad in law.

3. Learned counsel appearing on behalf of the State submits that it was found that the petitioner did not disburse the entire amount to the Jal Sahiyas' thus at the end of financial year substantial amount was surrendered. It is just because of the petitioner the amount was surrendered, thus punishment was imposed after giving an opportunity of hearing. He submits that there is no violation of principle of natural justice and punishment which is imposed is minor.

4. After hearing the parties and going through the documents, and since the issue which falls for consideration is interpretation of Rule 19 of the Jharkhand Government Servants (Classification, Control & Appeal) Rules, 2016 and this Court has to decide whether the impugned order of punishment is in accordance with the aforesaid Rules or not, it is not necessary to call for any counter affidavit in this case. Being a writ of certiorari it is the order which has to be tested on face of it and no affidavit can supplement the reasons mentioned in the order.

5. The petitioner herein is the In-charge Executive Engineer. He is posted in the Drinking Water and Sanitation Department, Pakur. For the financial year 2023-24 an allotment was made to make payment to Jal Sahiyas. There was clear direction to the petitioner to disburse the amount by 31.03.2024. In the supplementary budget Rs. 413.71 lacs was allotted for the aforesaid payment. The petitioner disbursed only Rs. 161.85 lacs thus the amount of Rs. 251.86 lacs was surrendered. The department thereafter issued a show cause notice and he was asked to furnish his reply as to why not an appropriate step be taken against him as a substantial amount got lapsed and was

surrendered. The petitioner filed a reply on 09.07.2024. He has raised several points in his defence. The respondents thereafter by the impugned order dated 11.02.2025 as contained in Memo No. 346, after rejecting the contention raised by the petitioner in his reply, invoking Rule 14(i) of the Jharkhand Government Servants (Classification, Control & Appeal) Rules, 2016 has censured the petitioner. Aggrieved by the aforesaid order the petitioner has approached this Court.

6. Admittedly the petitioner has been punished. The punishment of censure is a minor punishment in terms of Rule 14(1) of Part-V of the Rules of 2016. Rule 19 of the aforesaid Rules provides the procedure which has to be followed for imposing minor penalty. It is necessary to quote Rule 19 of the Jharkhand Government Servants (Classification, Control & Appeal) Rules, 2016 for better appreciation:-

19. Procedure for imposing minor penalties :- subject to the provisions of sub rule (3) of rule (18), no order imposing on a Government Servant any of the penalties specified in clauses (i) to (iv) of rule 14 shall be made except after –

- (a) informing the Government Servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;
- (b) considering the representation, if any, submitted by the Government Servant under clause (a);
- (c) recording a finding on each imputation of misconduct or misbehaviour.

7. From perusal of the aforesaid provision it is clear that before imposing minor penalty the authority must issue a notice in writing intimating the Government Servant about the action which they intend to take and the imputation of his misconduct or his misbehavior. Further reasonable opportunity of representation is to be provided to the employee. Further the authority must consider the representation and thereafter record a finding on each of the imputation of misconduct and misbehavior. Thus, the authority must

not only give opportunity of hearing but also consider each of the imputation of his misconduct and consider the representation in defence filed by the employee.

8. In the instant case from the impugned order, I find that the respondents have mentioned that show cause notice was given to the petitioner, which the petitioner has replied. Thereafter in the impugned order it has been mentioned in one line that after considering the representation as unacceptable, punishment of censure is imposed upon the petitioner. From the impugned order, I find that there is nothing to suggest that the respondents have considered and dealt with the representation of the petitioner nor there is recording of finding by the Disciplinary Authority on each of the imputation or misconduct. It was the statutory duty of the Disciplinary Authority to record a finding on each of the imputations, which the respondents have failed in this case.

9. The word “consider” has been explained by the Hon’ble Supreme Court in the case of “**Chairman, Life Insurance Corporation of India & Others vs. A. Masilamani**” reported in **(2013) 6 SCC 530**. In paragraph 19 of the said judgment, the Hon’ble Supreme Court has held that an opinion has to be formed by the statutory authority, which should be reflected on the records itself. Paragraph 19 of the said judgment reads as under: -

19. The word “consider” is of great significance. The dictionary meaning of the same is, “to think over”, “to regard as”, or “deem to be”. Hence, there is a clear connotation to the effect that there must be active application of mind. In other words, the term “consider” postulates consideration of all relevant aspects of a matter. Thus, formation of opinion by the statutory authority should reflect intense application of mind with reference to the material available on record. The order of the authority itself should reveal such application of mind. The appellate authority cannot simply adopt the language employed by the disciplinary authority and proceed to affirm its order. (Vide India Oil Corpn. Ltd. v. Santosh Kumar and Bhikhubhai Vithalbhay Patel v. State of Gujarat).

10. In this case, I find that there is violation of Rule 19 while

passing the impugned order as Rule 19(b) and 19(c) of the Rules of 2016 has not been complied with. The consideration and recording of findings must be reflected in the order impugned itself which is lacking in this case. Thus, I am inclined to allow this writ petition. Impugned order dated 11.02.2025 is quashed. The matter is remitted back to the Disciplinary Authority for passing an appropriate fresh order by giving reasons and considering each of the imputations and the reply of the petitioner in his defence on those imputation. It is expected that the fresh order should be passed within the period of eight weeks from the date of the receipt of the copy of this order.

11. This writ petition is **allowed**.

(ANANDA SEN, J.)

30.10.2025

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