

IN THE HIGH COURT OF JHARKHAND AT RANCHI**W.P.(S) No. 5441 of 2022**

.....
 Singrai Tuti, aged about 59 years, Son of Late Selai Tuti, Resident
 of Harihar Singh Road, Manda Tand, P.O. & P.S.-Bariatu, District-
 Ranchi, Jharkhand

.... Petitioners**VERSUS**

1. The State of Jharkhand through the Chief Secretary, Govt. of Jharkhand, having its office at Project Building, P.O. & P.S. Dhurwa, District Ranchi, Jharkhand.
2. The Secretary, Road Construction Department, Govt. of Jharkhand, having its office at Project Building, P.O. & P.S. Dhurwa, District Ranchi, Jharkhand.
3. The Joint Secretary, Road Construction Department, Govt. of Jharkhand, having its office at Project Building, P.O. & P.S. Dhurwa, District Ranchi, Jharkhand.
4. The Deputy Secretary, Road Construction Department, Govt. of Jharkhand, Project Bhawan, P.O. & P.S. Dhurwa, Dist. Ranchi, Jharkhand.
5. The Technical Secretary to Chief Engineer (Communication)-cum-Enquiry Officer, Road Construction Department, Jharkhand, P.O. & P.S. Dhurwa, District-Ranchi, Jharkhand.

..... Respondent(s)**CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN**

.....
 For the Petitioner(s) : Mr. Rahul Kumar, Advocate
 For the Resp.-State : Mrs. Sweta Shukla, A.C. to AAG-II

09/04.05.2026

1. Heard learned counsel for the parties.
2. In the instant writ petition, the petitioner has prayed for the following reliefs:-

(a) For quashing the Reasoned order contained in Memo No. 3401(s) dated 19.09.2022 (Annexure-19) passed by Respondent-Secretary, Road Construction Department, Petitioner whereby the order of punishment dated 14.12.2011 has been amended and modified to the extent that the Petitioner has been imposed the punishment of withholding of two increments with cumulative effect and only subsistence allowance for the period under suspension;

(b) For quashing the notification as contained in Memo No. 8322(S) dated 14.12.2011 (Annexure-II) whereby the Petitioner has been imposed the

penalty of demotion on the Basic Pay Scale and has further been paid directed to be subsistence allowance only for the period of the departmental proceeding contemplated against the suspension Petitioner.

(c) For quashing the notification contained in Memo No. 5707(S) dated 17.06.2013 (Annexure-13) under issued the signature of the Respondent Deputy Secretary whereby, the Statutory Appeal preferred by the Petitioner as against the order of penalty dated 14.12.2011 has been rejected mechanically by a vague and cryptic order that too without considering the issues raised by the Petitioner in his Appeal.

(d) For quashing of the entire departmental proceeding contemplated against the Petitioner for nonest cause of action and Articles of Charge contained in Memo No.2514 dated 12.05.2010 (Annexure-4) issued under the signature of Respondent Deputy Secretary.

(e) Upon quashing of the impugned order of punishment the Petitioner consequently prays for resumption of his withheld increments and also the difference of arrears of salary minus the subsistence allowance paid to the Petitioner and to release the same with consequential arrears.

2. The case of the Petitioner as per the pleadings is that he was appointed as Assistant Engineer on 21.07.1989 and was promoted to Executive Engineer in May, 1998 and during the period 2007–2009, the Petitioner was posted at Road Division, Ranchi, and under the division, 6-Lane Approach Road to Mega Sports Complex, Hotwar was being constructed.

3. The road was constructed on the basis of a Detailed Project Report prepared by specialized technical agencies. It has been submitted that before the petitioner had joined the Road Division in Ranchi, the Field Survey Division had already prepared and technical sanction for the 6-lane Mega Sports Complex approach road DPR.

4. The road was designed for traffic intensity of 2 M.S.A., however, the traffic of National Highway was diverted and which led to premature damage of the road and for which, a departmental proceeding was initiated against the Petitioner and Sri Kailash Ram was appointed

as the Inquiry Officer. The sum and substance of charge had been negligence of the petitioner due to which the approach road to Mega Sports Complex has broken.

5. The Petitioner had submitted his reply on 22.09.2010, denying the charges and attributing the road failure to design deficiencies; rather than his performance and had also demanded certain relevant documents, which had been detrimental to the cause and substance of imputation against the petitioner.

6. The Inquiry officer in its proceeding dated 9.9.2010 has taken note of the required documents and had directed the department to comply the same.

7. Even after the direction of the Inquiry Officer, the necessary documents were not provided and enquiry report was submitted and 2nd show cause notice was served upon the petitioner to which the petitioner had replied in detail vide his letter dated 2.7.2011. In the said reply also, the petitioner has taken the issue of non-supply of the relevant documents and had prayed for his exoneration.

8. Finally, vide notification dated 14.12.2011, the petitioner has been imposed the following punishments:

(i) Demotion to the basic pay scale.

(ii) Pay restricted to subsistence allowance for the suspension period.

The said punishment was assailed by preferring a departmental appeal and the appellate authority vide its notification dated 17.6.2013 has been pleased to uphold the same.

9. The Petitioner thereafter had filed a Revision against the orders

of the Disciplinary and Appellate Authorities, as his defenses had been ignored, whereafter a committee of experts was constituted and the Technical Committee had submitted its report on 02.09.2014 holding the reason of the road's failure on defective design and the diversion of heavy National Highway traffic onto a road built for lighter loads.

10. Citing the Technical Report, the Principal Secretary recommended for exoneration of the petitioner; however, the recommendation of the Principal Secretary was not accepted on account of there being no provision of review or revision.

11. A criminal case had also been lodged being *Sadar P.S. Case No. 269/2009* for the same cause of action, in which the petitioner has faced trial and vide judgement dated 21.2.2019 passed in *Sessions Trial No. 526/2013* by the learned court of Additional Judicial Commissioner-X, Ranchi, he had been acquitted.

12. Earlier, the writ petition filed by the Petitioner being *W.P.(S) No. 2435/2017*, challenging the order of punishment has been disposed of vide order dated 21.10.2020, directing the Respondents to pass a fresh order considering the acquittal of the petitioner in the criminal case and also the report of the technical committee, exonerating the petitioner.

13. Thereupon the Respondents had passed reasoned order on 19.09.2022, modifying the punishment to:

- i. *Withholding of two increments with cumulative effect.*
- ii. *Pay restricted to subsistence allowance for the suspension period.*

14. Learned Counsel for the petitioner has argued that the departmental proceeding is vitiated on the following four grounds:-

(i) **Violation of Principles of Natural Justice:-**

The Petitioner was not supplied with relied-upon documents despite repeated requests and even directions of the Inquiry Officer. The enquiry was concluded without affording reasonable opportunity of hearing and defence, vitiating the entire proceeding.

Reliance has been placed by the petitioner upon the judgement of the Hon'ble Supreme Court of India in the case of *State of Uttar Pradesh Vs. Shatrughan Lal & Anr.*, (1998) 6 SCC 651, *Trilok Nath Vs. Union of India*, 1967 SLR 759 (SC) and the *State of Punjab Vs. Bhagat Ram*, (1975) 1 SCC 155 to buttress his arguments that the failure of the Inquiry officer to provide the copies of the relevant documents amounts to deprivation of reasonable opportunity of hearing.

(ii) **Non-examination of Witnesses:-**

No oral witness has been examined in order to prove the charge/documentary evidence and in absence of the non-examination of the witnesses, the documents could not have been taken into account to prove the charges against the petitioner.

Reliance has been placed by the Counsel for the petitioner on the judgement of the Hon'ble Supreme Court of India in the case of *Roop Singh Negi Vs. Punjab National Bank*, reported in (2009) 2 SCC 570 and in the case of *State of U.P. Vs. Saroj Kumar Sinha*,

reported in (2010) 2 SCC 772. The Counsel had further relied upon the judgement in the case of Satendra Singh Vs. State of U.P., reported in (2024) SCC Online SC 3325 and in the case of State of U.P. through the Principal Secretary, Dept. of Panchayati Raj, Lucknow Vs. Ram Prakash Singh, reported in (2025) SCC Online SC 891 and also on a very recent judgement of the Hon'ble Apex Court in the case of Jay Prakash Saini Vs. Managing Director, U.P. Co-operative Federation Ltd., reported (2026) SCC Online SC 505 to buttress his argument that if the department had not produced any evidence, the enquiry stands vitiated.

(iii) Acquittal in Criminal Case:-

The Petitioner has also argued that after full-fledged trial, he has been acquitted in Sessions Trial No. 526/2013 arising out of the same allegations and hence, the acquittal of the petitioner after proper appreciation of evidence has to be considered.

(iv) Parity with Co-delinquents:-

Similarly situated co-delinquents namely Amar Kumar Sinha, who was working as Junior Engineer and the charges levelled against him had been identical has been exonerated from the charges at the intervention of this Court vide order dated 6.3.2020 passed in *W.P.(S) No. 5246/2013*, which has been assailed by the State authorities in *L.P.A. No. 2012/2021* and upheld. The petitioner in order to demonstrate the charges being similar had brought on record the charges levelled against the said Junior Engineer as

contained in Prapatra-Ka (Annexure-20) and also the orders passed by this Court.

15. The petitioner has further argued that not only the Junior Engineer, but even the Assistant Engineer against whom there had been similar allegation and same order of punishment had also been exonerated vide notification dated 17.6.2025, which has been passed in terms of the direction passed by this Hon'ble Court in *W.P.(S) No. 1599 of 2014*.

Reliance has been placed by the Counsel for the petitioner on the judgement of the Hon'ble Apex Court in the case of *Rajendra Yadav Vs. State of Madhya Pradesh & Ors., reported in (2013) 3 SCC 73* to buttress his argument that doctrine of equality applies to all who are equally placed, even amongst persons who are found guilty.

16. In view of the procedural impropriety and violation of the principles of natural justice and the exoneration of the co-delinquents and also the acquittal of the petitioner in the criminal proceeding; the Counsel for the petitioner has argued that the punishment imposed upon the petitioner be set aside and the petitioner be allowed equitable relief as has been allowed to the co-delinquent.

17. A counter affidavit has been filed on behalf of the Respondent Nos. 2 to 4 and in the counter affidavit it has been contended that due opportunity has been given to the petitioner by serving 2nd show

cause and considering the Inquiry report, the impugned order of punishment has been passed, inasmuch as, four charges levelled against the petitioner have been found to be proved. The petitioner has also been afforded due opportunity of hearing.

18. Guided by the law laid down by the Hon'ble Apex Court with respect to the power under Article 226 of the Constitution of India to interfere in the order of penalty passed in a Departmental Proceeding, the sole question arises as to whether the order impugned dated 19.09.2022 by which the punishment of withholding two increments with cumulative effect has been imposed, can be interfered with.

19. Having heard the Counsel for the Parties and after going through the documents available on record, admittedly in this case, no oral witness has been examined in order to prove the charges/documents considered in the proceeding.

20. Further, as per the pleadings, the demand of requisite documents forming basis of imputation has also not been provided to the delinquent though there was a direction by the Inquiry officer to provide the same and on this score, the punishment imposed upon the co-delinquent namely Amar Kumar Sinha has been set aside in *W.P.(S) No. 5246/2013*. The said order has been challenged in intra-court Appeal by the State vide *L.P.A. No. 212/2021* and the order passed by the Single Judge has been affirmed vide judgment dated 13.03.2023.

21. The Petitioner has also sought for parity with one Indubhushan Singh, the Assistant Engineer, who has also been held guilty and the punishment imposed upon him has also been set aside by this Court vide order dated 03.11.2020 passed in *W.P.(S) No. 1599/2014* as against which LPA has been preferred which has also been dismissed and ultimately the Department vide order dated 17.06.2025 has itself withdrawn the order of punishment.

22. In view of the discussions made herein above, and while considering the law laid down by the Hon'ble Apex Court in the case of *Roop Singh Negi (Supra)* to another recent judgment in the case of *Satendra Singh (Supra)*, and in the case of *Ram Prakash Singh(Supra)*, and in the case of *Jay Prakash Saini (Supra)*, this court holds that oral witness is necessary to prove the documents and the charges levelled against the delinquent employee which is absent in the instant case.

23. The rules of fairness and natural justice also demand that the copies of the relevant documents on the basis of which the imputation has been alleged have to be supplied and in case the copies thereof have not been provided, it would amount to denial of reasonable opportunity, and vitiates the proceeding.

24. The parity with the co-delinquent on the basis of charges has also to be looked into while imposing the punishment and here in the instant case the Junior Engineer and the Assistant Engineer have

already been exonerated and hence the Petitioner is also entitled for same treatment and relief.

25. It has also been informed that the Petitioner herein has superannuated like the other co-delinquents and hence, no useful purpose would be served by relegating the matter.

26. Accordingly, the Impugned Orders dated 19.09.2022, 14.12.2011 and 17.06.2013 are all set aside and quashed and the respondents are directed to restore the pay of the Petitioner without any deduction and to accordingly calculate the monetary benefits and consequently pay the same along with arrears, within a period of 10 weeks from the date of receipt of copy of this order.

27. Accordingly, the instant writ application stands allowed. Pending IAs, if any, are closed. No cost.

(Deepak Roshan, J.)

Dated: 04 /05/2026
Amardeep/
A.F.R

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