IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 1287 of 2025

Anil Kumar, aged about 44 years, son of late Janardan Ram, resident of Village Bhawnath Pur (Buka), P.O. & P.S. Bhawnath Pur, District Garhwa - 822112, Jharkhand, at present posted and working as Circle Officer, Deoghar, at P.O. & P.S. Deoghar, District Deoghar, Jharkhand.

... … Petitioner

Versus

1. The State of Jharkhand.

2. The Secretary, Personnel Administrative Reforms and Rajbhasha Department, Government of Jharkhand, having its Office at Project Building, P.O. & P.S. Dhurwa, District Ranchi.

3. The Joint Secretary, Personnel Administrative Reforms and Rajbhasha Department, Government of Jharkhand, having its Office at Project Building, P.O. & P.S. Dhurwa, District Ranchi.

4. The Deputy Commissioner, Ranchi, P.O. & P.S. Kotwali ,District-Ranchi. ... … Respondent(s)

…….

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner(s) : Mr. Krishna Murari, adv.
For the Res. State : Mr. Binit Chandra, AC to AAG-III

CAV ON: 19/08/2026 **PRONOUNCED ON: 18/11/2026**

The instant writ application has been preferred by the petitioner for the following reliefs:-

> *a) For quashing the entire departmental proceeding including the Resolution dated 24.01.2022 (Annexure-8), issued under the signature of Joint Secretary, Personnel Administrative Reforms & Rajbhasha Department, Government of Jharkhand (respondent No.3), whereby and where under in gross violation of Rule 17 (1) to (6) of the Jharkhand Government Servants (Classification, Control & Appeal) Rules, 2016 to be read with the judgment of Murari Bhagat Vs. State of Jharkhand & Ors. reported in (2019) 4 JBCJ 94 HC, to be read with Delhi Development Authority Vs. H.C. Khurana reported in (1993) 3 SCC 196 (para-9) and the judgments of Roop Singh Negi Versus Punjab National Bank reported in (2009) 2 SCC 570, impugned departmental proceeding was constituted / initiated by appointing the Enquiry Officer by same*

stroke of pen and secondly without there being having any list of witnesses appended with the Memo of Charge rendering the same as non-est, besides arbitrary, illegal & unconstitutional.

b) Consequently, for quashing the empty Enquiry Report dated 11.05.2022 (Annexure-11) together with prejudged second Show Cause Notice dated 01.12.2022 by which the impugned enquiry report has been sought to be served after unilateral acceptance of the same, although same is based on "No Evidence", as neither any document was exhibited nor any witness was examined in support of the charge and thus the same are collectively arbitrary and non-est in the eyes of law besides being violative of principles of natural justice.

c) Further, to also quash the consequential impugned order / Resolution of Punishment dated 22.08.2023 (Annexure-15) as well as Appellate Order / Resolution dated 29.07.2024 (Annexure-16), which are equally illegal, arbitrary and unconstitutional besides being non-est in the eyes of law, being otherwise hit by principles of natural justice and fair play as well as statutory violation of Rule 17 (1) to (6) of the Jharkhand Government Servants (Classification, Control & Appeal) Rules, 2016.

d) Consequently to restore all consequential benefits treating the services of the petitioner as sanguine and to pay the entire differential arrears as well as to grant due promotion along with similarly situated persons.

e) During pendency of this writ petition, operation, effect and implementation of the impugned order of punishment imposed vide impugned order / Resolution of Punishment dated 22.08.2023 (Annexure-15), may kindly be stayed.

2. It has been submitted by Ld. Counsel for the petitioner that the disciplinary authority, vide Resolution dated 24.01.2022 (Annexure-8), initiated the departmental proceeding and simultaneously appointed the Inquiry Officer and the Presenting Officer, without first following the statutory procedure concerning consideration of the petitioner's written defense. The said action is contrary to the procedure prescribed under Rule

17 and the law laid down by this Hon'ble Court in ***Murari Bhagat v. State of Jharkhand & Others, W.P.(S) No. 1054 of 2019***.

3. He had also submitted that admittedly the documents which has been relied upon by the Inquiry officer has not been proved by any oral evidence which is also against the settled proposition of law as held in the case of ***Roop Singh Negi Vs. Punjab National Bank & Ors***, reported in ***(2009) 2 SCC 570*** and ***State Of Uttar Pradesh and Ors. versus Saroj Kumar Sinha*** reported in ***(2010) 2 SCC 772***. He had submitted that when the documents have not been exhibited; it can be said to be a case of "No Evidence."

He also relied upon the judgment delivered by this Court in ***Arvind Kumar v. State of Jharkhand, W.P.(S) No. 1530 of 2023***. In this case the Hon'ble Court found that the documents had not been proved through oral evidence and that the procedure prescribed under Rule 17 of the CCA Rules, 2016, had not been followed.

4. *Per contra,* Ld. Counsel for the Respondents drew attention of this Court towards enquiry report and the order of punishment and had submitted that there is no perversity in the order and it is well reasoned order and no interference is required. However, he could not dispute the fact that no witness has been examined in order to prove the charges levelled against the petitioner.

5. Having heard learned 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 document/charges levelled against the petitioner. The issue of examination of oral witness has been dealt repeatedly by the Hon'ble Apex Court right from the case of ***Roop Singh Negi*** (Supra) further reiterated in the case of ***Saroj Kumar Sinha (supra).*** However, it has been seen in many cases that the authorities have not yet understood the importance of oral evidence.

6. In the case of ***Satyendra Singh Vs. State of Uttar Pradesh and Another***, reported in ***2024 SCC Online SC 3325*** the Hon'ble Apex Court has reiterated the same principle *(Refer- Para 13 to 15 & 19)*:

7. As a matter of fact, way back in the year 2010 itself in the case of ***State of Uttar Pradesh v. Saroj Kumar Sinha*** (supra), the Hon'ble Apex Court held that even in an ex-parte inquiry, it is the duty of the Inquiry Officer to examine the evidence presented by the Department to find out whether the unrebutted evidence is sufficient to hold that the charges

8. Recently, the same issue was raised before Hon'ble Apex Court in the case of ***State of Uttar Pradesh through Principal Secretary, Department of Pachayati Raj, Lucknow Vs. Ram Prakash Singh*** reported in ***2025 SSC Online 891*** and Hon'ble Apex Court after going through several of its previous judgment has reiterated the law as under:

> ***"13.*** *In Roop Singh Negi v. Punjab National Bank, it was held that an officer conducting an enquiry has a duty to arrive at findings in respect of the charges upon taking into consideration the materials brought on record by the parties. It has also been held therein that any evidence collected during investigation by an investigating officer against the accused by itself could not be treated to be evidence in the disciplinary proceedings.*

14. *What follows from a conjoint reading of the above two decisions is and what applies here is that, 'materials brought on record by the parties' (to which consideration in the enquiry ought to be confined) mean only such materials can be considered which are brought on record in a manner known to law. Such materials can then be considered legal evidence, which can be acted upon. Though the Indian Evidence Act, 1872 is not strictly applicable to departmental enquiries, which are not judicial proceedings, nevertheless, the principles flowing therefrom can be applied in specific cases. Evidence tendered by witnesses must be recorded in the presence of the delinquent employee, he should be given opportunity to cross-examine the witnesses and no document should be relied on by the prosecution without giving copy thereof to the delinquent - all these basic principles of fair play have their root in such Act. In such light, the documents referred to in the list of documents forming part of the annexures to the chargesheet, on which the department seeks to rely in the enquiry, cannot be treated as legal evidence worthy of forming the basis for a finding of guilt if the contents of such documents are not spoken to by persons competent to speak about them. A document does not prove itself. In the enquiry, therefore, the contents of the relied-on documents have to be proved by examining a witness having knowledge of the contents of such document and who can depose as regards its authenticity. In the present case, no such exercise was undertaken by producing any witness.*

15. *We may further refer to the decision of this Court in State of Uttar Pradesh v. Saroj Kumar Sinha17 where disciplinary proceedings were drawn up against the respondent, Saroj Kumar Sinha, under the 1999 Rules itself with which we are concerned. Paragraphs 26 to 30 and 33 of the said decision being relevant are quoted below:*

> *"26. The first inquiry report is vitiated also on the ground that the inquiry officers failed to fix any date for the appearance of the respondent to answer the charges. Rule 7(x) clearly provides as under:*
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> > *'7. (x) Where the charged government servant does not appear on the date fixed in the inquiry or at any stage of the proceeding in spite of the service of the notice on him or having knowledge of the date, the inquiry officer shall proceed with the inquiry ex parte. In such a case the inquiry officer shall record the statement of witnesses mentioned in the charge-sheet in absence of the charged government servant.'*
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> *27. A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.*
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> *28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents. 29. Apart from the above, by virtue of Article 311(2) of the Constitution of India the departmental enquiry had to be conducted in accordance with the rules of natural justice. It is a basic requirement of the rules of natural justice that an employee be given a reasonable opportunity of being heard in any proceedings which may culminate in punishment being imposed on the employee.*
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> *30. When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings*

> *also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service.*
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> *33. As noticed earlier in the present case not only the respondent has been denied access to documents sought to be relied upon against him, but he has been condemned unheard as the inquiry officer failed to fix any date for conduct of the enquiry. In other words, not a single witness has been examined in support of the charges levelled against the respondent. The High Court, therefore, has rightly observed that the entire proceedings are vitiated having been conducted in complete violation of the principles of natural justice and total disregard of fair play. The respondent never had any opportunity at any stage of the proceedings to offer an explanation against the allegations made in the charge-sheet." (emphasis ours)*
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> ***16***. *It appears that the appellant is yet to take lessons despite the admonition in Saroj Kumar Sinha (supra). The same kind of omissions and commissions that led to setting aside of the order of punishment imposed being upheld by this Court were repeated in the present case."*

9. After going through the aforesaid judgments, this Court is having no hesitation in holding that the oral witness is necessary to prove the documents and the charges levelled against the delinquent employee, which is absent in the instant case.

10. Thus, for the sole reason of non-examination of oral witness by the department, this Court is of the considered view that the enquiry report dated 11.05.2022, cannot be sustained in the eyes of law. Consequently, the subsequent order of punishment dated 22.08.2023 and the appellate order dated 29.07.2024, being founded upon such an enquiry report, are also rendered unsustainable and are bad in law.

11. Accordingly, the impugned Resolution dated 24.01.2022 (Annexure-8) by which the departmental proceeding was initiated, the enquiry report dated 11.05.2022, the consequential second show-cause notice dated 01.12.2022, the order of punishment contained in Resolution dated 22.08.2023 and the appellate order dated 29.07.2024, are, hereby,

quashed and set aside.

12. Since this is a case of procedural irregularity and the petitioner is still in service, the matter is remitted to the disciplinary authority with a direction to proceed with the stage of enquiry strictly in accordance with law and shall pass an order following settled proposition of law and principles of natural justice.

13. It is made clear; the entire remand proceedings must be completed within a period of 16 weeks from the date of receipt of copy of this order; and if it is not completed within the aforesaid stipulated period; the remand proceedings shall abate and the respondents shall restore all consequential benefits to the petitioner.

It is further made clear that the petitioner shall fully cooperate in the remand proceedings.

14. As a result, the instant writ petition stands allowed in the manner indicated hereinabove. Pending I.A.(s), if any, stands closed.

(Deepak Roshan, J.)

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