

(2026) 01 JH CK 1794
In the Jharkhand High Court
Case No : Writ Petition (S) No. 929 Of 2023

Amaresh Bhattacharya, son of Late Byomkesh Bhattacharya	APPELLANT
Vs	
General Manager, Jharkhand Bijli Vitran Nigam Limited	RESPONDENT

Date of Decision : 12-01-2026

Acts Referred:

Constitution of India, 1950 — Article 14, 226, 300A

Citation : (2026) 01 JH CK 1794

Hon'ble Judges : Ananda Sen, J

Bench : Single Bench

Advocate : Manoj Tandon, Neha Bhardwaj, Sachin Kumar, Shambhavi Sinha, Aditi Raj

Final Decision : Disposed Of

Judgement

Ananda Sen, J

1. By filing this writ petition, the petitioner has prayed for the following reliefs:-

(i) To quash and set aside the order, contained in office order no.256 dated 14.03.2022 (Annexure-7), issued under the pen and signature of Deputy General Manager (respondent No.3), whereby and whereunder, the petitioner has been made to retire from service on 31.03.2014.

(ii) To also quash and set aside the order contained in office order no.278 dated 25.03.2022 (Annexure-8), issued under the pen and signature of Deputy General Manager (Respondent no.3) whereby and whereunder full pension and gratuity of the petitioner have been withheld.

(iii) To direct the respondents to pay all the pension-cum-retirement benefits including gratuity and all other benefits to the petitioner as he retired on 30.09.2021 from the post of Messenger.

(iv) During the pendency of this writ application, the operation, execution

and implementation of office orders dated 14.03.2022 and 25.03.2022 may kindly be stayed.

(v) For any other appropriate relief / reliefs, to which the petitioner is found to be entitled in the facts and circumstances of this case as also to do conscionable justice to the petitioner.

(vi) To quash and set aside the order contained in Memo No.896 dated 08.05.2023 (Annexure- 12) passed by Managing Director, Jharkhand Bijli Vitran Nigam Limited (JBVNL) whereby the full pension and gratuity of the petitioner has been withheld."

2. Heard learned counsel representing the petitioner and learned counsel representing the respondents.

3. The facts of the case are as follows:-

3.1. The petitioner was appointed on compassionate ground as Messenger on 26.11.1984 in Central Electricity Supply Division, Patna. After the bifurcation he was allocated to the State of Jharkhand.

3.2. On the complaint of his wife Smt. Jyotsna Bhattacharya on 20.06.2017 to the General Manager (HR), he was proceeded departmentally by framing a Memo of Charge vide Office Order No. 831 dated 19.08.2020 against him. The two charges which were levelled against the petitioner are as follows:-

(i) The date of birth entered in the service book of the petitioner is 19.09.1961 which is on the basis of Matriculation Certificate but a complaint has been received that actual date of birth is 01.04.1954.

(ii) The petitioner married second wife in spite of the fact that he was already married and his first wife is still alive.

3.3. The petitioner submitted reply on 18.11.2020 denying the charges levelled against him.

3.4. A departmental enquiry was conducted and enquiry report was submitted on 28.09.2021 by the Enquiry Officer.

3.5. The petitioner has been made to retire w.e.f 31.03.2014 vide office order no.256 dated 14.03.2022 considering his date of birth as 1.04.1954 and vide order contained in office order no.278 dated 25.03.2022 a second show cause notice issued annexing enquiry report to the petitioner seeking his reply for the proposed punishment of withholding full pension and gratuity. Thereafter again petitioner has been issued reminder notices dated 08.06.2022 and dated 28.09.2022 asking the petitioner to submit reply, to which the petitioner submitted reply on 19.10.2022.

3.6. The Managing Director, Jharkhand Bijli Vitran Nigam Limited, Ranchi after considering the reply of the petition has passed order of withholding the full gratuity and pension vide Memo No.896 dated 08.05.2023. Thus, being

aggrieved of the aforesaid orders the petitioner filed this writ petition.

4. Mr. Manoj Tandon, learned counsel representing the petitioner submitted that when charge no.1 was not proved by the Enquiry Officer, the impugned orders cannot be passed on the basis of the charge no.1 without differing with the findings of the Enquiry Officer on charge no.1. He further submitted that without any prove the petitioner should not be retired on 31.03.2014 on the basis of date of birth as 1.04.1954. He further submitted that on the basis of the findings of the Enquiry Report the punishment of forfeiture of full pension and gratuity could not be imposed upon the petitioner, which is passed in complete violation of Articles 14 and 300-A of the Constitution of India. He thus contended that the petitioner is entitled for payment of entire pension cum retirement benefit including gratuity on account of his retirement on 30.09.2021.

5. Per contra the learned counsel representing the respondents submitted that on the basis of the complaint of the wife of the petitioner a departmental proceeding against the petition was initiated. After a proper departmental enquiry, the allegation of bigamy is found proved. He further submitted that in his reply dated 19.10.2022, the petitioner accepted second marriage and mentioned the prevailing customs regarding his divorce from his first wife, Mrs. Jyotsna Bhattacharya, but no legal documentary evidence, such as a decree from a competent court, was submitted. He further submitted that with regards to the charge of manipulation relating to the "Date of Birth", as per the recommendations of the enquiry officer, correspondence was made with the concerned school. An information was received from the Government +2 High School, Nala, Jamtara, and the admit card issued by the Bihar School Examination Board, Patna, clearly show that Mr. Amaresh Bhattacharya (the petitioner) appeared for the matriculation examination in 1973 with the date of birth 1.04.1954, and again, the admit card and certificate number 86C0299602 issued by the Bihar School Examination Board, Patna, confirm that he appeared for the matriculation examination in 1986 with a different date of birth, 19.09.1961. Thus, the petitioner has been made to retire w.e.f 31.03.2014 vide office order no.256 dated 14.03.2022 considering his date of birth as 1.04.1954. He further submitted that he is rightly been imposed with punishment of forfeiture of full pension and gratuity.

6. After hearing learned counsel representing the parties and perusing the records, it transpires that on the basis of the complaint dated 20.06.2017 of the wife of the petitioner a departmental proceeding against the petitioner was initiated. After a proper departmental enquiry, the allegation of bigamy is found proved. Further, the petitioner admitted in his reply to second show cause the fact of second marriage. Further, with regard to the allegation of different date of birth of the petitioner the enquiry officer, made certain recommendations to enquire into the matter. Pursuant to the aforesaid recommendations, correspondence was made with the first joining officer of the petitioner to get the documents submitted at the time of first joining and simultaneously

correspondence was made with BSEB, Patna and the concerned School.

6.1. An information was received from the Government +2 High School, Nala, Jamtara, and the admit card issued by the Bihar School Examination Board, Patna, clearly shows that the petitioner appeared for the matriculation examination in 1973 with a date of birth of 01.04.1954 and he again appeared for the matriculation examination in 1986 with a different date of birth, 19.09.1961. Thus, order passed by the respondent regarding his date of retirement w.e.f 31.03.2014 vide office order no.256 dated 14.03.2022 considering his date of birth as 1.04.1954 does not warrant any interference.

6.2. It is well settled that while dealing with the cases of departmental proceeding, the scope of the High Court in exercise of jurisdiction under Article 226 of the Constitution of India is very limited and it cannot act as appellate authority. It is also well settled that the High Court in its writ jurisdiction should also not interfere with the punishment, unless it appears to be shockingly disproportionate to the proved charges [refer, "Union of India versus P. Gunasekaran reported in (2015) 2 SCC 610, at paragraphs 12 and 13"].

7. Considering the charges levelled against the petitioner which was proved in a departmental proceeding, in my opinion, the quantum of punishment "forfeiture of full pension and gratuity" does not commensurate with the proved charge and is shockingly disproportionate as according to me withholding of entire pension and gratuity is too harsh. It is well settled that the Courts cannot assume the function of disciplinary authorities and decide the quantum of punishment and nature of penalty to be awarded, as this function is exclusively within the jurisdiction of the competent authority.

8. The Hon'ble Supreme Court in the case of Lucknow Kshetriya Gramin Bank Vs. Rajendra Singh, reported in (2013) 12 SCC 372, while observing that the judicial review of the quantum of punishment is available with a very limited scope has held as under:-

"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."

9. Thus, taking into consideration the aforesaid judgments and observation made hereinabove the impugned order being Memo No.896 dated 08.05.2023 only to the extent of punishment of forfeiture of full pension and gratuity, is

hereby set aside. The matter is remanded to the disciplinary authority to take a fresh decision on the quantum of punishment within six weeks from the date of receipt of copy of this order after giving one opportunity of hearing to the petitioner.

10. With the aforesaid observation, this writ petition stands disposed of.

11. Pending interlocutory application, if any, also stands disposed of.