
(2026) 01 JH CK 1756

In the Jharkhand High Court

Case No : Writ Petition (S). No. 837 Of 2018

Amrendra Kumar Singh, son of Rama Nand Singh

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 08-01-2026

Acts Referred:

Indian Penal Code, 1860 — Section 419, 420

Citation : (2026) 01 JH CK 1756

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Ajay Kumar Pathak, Shubham Gautam

Final Decision : Allowed

Judgement

Deepak Roshan, J

1. Heard learned counsel for the parties.

2. By way of present writ application, the petitioner has prayed for quashing the order dated 25.05.2017 (Annexure-4), issued by the respondent No. 4 whereby the petitioner has been dismissed from service.

Further, prayer has been made for quashing the appellate order dated 12.12.2017 (Annexure-5) issued by the respondent No. 3, whereby the appellate authority has affirmed the order of punishment.

It has also been prayed that after quashing the aforesaid orders, the respondents be directed to reinstate the petitioner in service with all consequential benefits.

3. Shorn of unnecessary details, the petitioner was appointed as Constable after successfully completion of examination and other procedure against the Advt. No. 3/2007 in the year 2008. On the basis of a letter sent by an unknown person in the year 2011, a charge memo was issued to the petitioner on the allegation that at the time of verification of documents, the photograph of the petitioner was missing in the appointment register. Further, though the height of the

petitioner is 184.2 cms. but in the master chart it has been written as 185 cms. On the aforesaid allegations, Borio (Jirwabari O.P.) P.S. Case No. 146/11 u/s. 419/420 IPC was lodged against the petitioner.

4. On the basis of aforesaid allegations, the petitioner was suspended vide order dated 28.08.2011 and departmental proceeding has been initiated against him. After completion of the departmental proceeding, the Enquiry Officer submitted his report holding the petitioner guilty of the charges. Thereafter, the Disciplinary Authority issued show-cause notice to petitioner against the proposed punishment annexing the copy of enquiry report vide memo dated 02.05.2017, to which the petitioner replied vide letter dated 10.05.2017 requesting the respondent No. 4 to exonerate him from all allegations because he has not committed any wrong. However, the Disciplinary Authority vide memo dated 25.05.2017 dismissed the petitioner from service. Against the order of dismissal, the petitioner preferred appeal which also stood dismissed vide order dated 12.12.2017.

5. In the criminal case final form has been submitted and on the basis of final form, learned Trial Court has already dismissed the G.R. Case No. 375/2011 corresponding to Borio (Jirwabari O.P.) P.S. Case No. 146/11 vide order dated 25.01.2017.

6. The stand of the petitioner is that for an allegation of fraud, a departmental proceeding was initiated and for the same set of charge, a criminal case was also instituted. In the criminal case, final form has been submitted indicating therein that no charge has been proved and the same was accepted by the Court. However, in the departmental proceeding without any rhyme and reason and in spite of the fact that none of the witnesses have stated that petitioner was involved in removing the photograph from the original application, charge has been proved and the petitioner has been terminated. Accordingly, the impugned order of punishment should be quashed and set aside.

7. Learned counsel for the respondents submits that proper procedure has been followed and it is a settled principle that in spite of same and similar charge, departmental proceeding and criminal case cannot be equated because the departmental proceeding proceeds on preponderance of probabilities and in criminal case, it has to be proved beyond reasonable doubt. Accordingly, no interference is required.

8. Having heard learned counsel for the parties and after going through the documents including the impugned orders, reply to the 2nd show-cause notice and the grounds of appeal preferred by the petitioner after the order of termination, it is evidently clear that in reply to the 2nd show-cause notice, the petitioner has taken a specific stand in paragraphs-12, 13 and 14 that in criminal case he has been exonerated as final form has been submitted by holding that charge has not been proved. Even in the memorandum of appeal before the Appellate Authority in para-9 this ground has been taken but unfortunately

neither the Disciplinary Authority has considered this ground nor the Appellate Authority bothered to consider this ground.

9. From perusing of the charge-sheet, it appears that the charge is with regard to photograph which was not found in the original record of the case. From charge itself it appears that when the matter was enquired it was found that the then Officer took the entire file in his custody. Therefore, even there is no charge as such that the petitioner was involved in removing the photograph from his original file.

10. Be that as it may; when the petitioner has taken specific stand in reply to the 2nd show-cause notice that he has been exonerated in the criminal case, which was instituted by the Department, the same has not been considered by the Disciplinary Authority. As stated hereinabove, when the petitioner took a specific stand in his memorial of appeal at para-9 that he has been exonerated by the Criminal Court and charge has not been framed and final form has been accepted holding that no charge has been proved but for the reasons best known to the Appellate Authority this ground has not been taken into consideration.

11. Looking to the overall facts and circumstances of the case, this Court holds that the impugned order of punishment as well as the appellate order need to be interfered on the ground of non-consideration of specific stand taken by the petitioner.

12. Accordingly, the impugned orders dated 25.05.2017 (Annexure-4) and 12.12.2017 (Annexure-5) are hereby quashed and set aside. The petitioner shall be reinstated in service forthwith. However, the respondents would be at liberty to pass a fresh order taking into to consideration that Criminal Court has exonerated the petitioner, and it has not been proved that the petitioner himself involved in removing the photograph.

13. The instant writ application stands allowed. Pending I.A., if any, also stands closed..