

**(2014) 09 JH CK 0061**

**In the Jharkhand High Court**

**Case No : W.P. (S). No. 3897 of 2011 and I.A. No. 2681 of 2012**

Anant Prasad Jaiswal

APPELLANT

Vs

The Chancellor of Universities

RESPONDENT

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**Date of Decision : 16-09-2014**

**Acts Referred:**

**Citation : (2015) 1 AJR 284 : (2014) 4 JLJR 179**

**Hon'ble Judges : Harish Chandra Mishra, J**

**Bench : Single Bench**

**Advocate : A. Allam, S.C, Advocate for the Respondent**

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## **Judgement**

Harish Chandra Mishra, J.—Heard the petitioner in person and learned senior counsel for the respondent University.

2. The petitioner is aggrieved by the order dated 3.1.2011, passed by the Vice-Chancellor, Birsa Agricultural University, Kanke, Ranchi (herein after referred to as the "University"), contained in Annexure-6 to the writ application, whereby the punishment of removal from service has been imposed upon the petitioner, who was working as Junior Scientist-cum-Assistant Professor, in the University. By way of interlocutory application, the petitioner has also challenged the letter dated 4.7.2011, contained in Annexure-11 to the writ application, whereby the petitioner was informed that his appeal dated 10.1.2011 filed against the order dated 3.1.2011 had already been considered and rejected by the Chancellor of the Universities, which was communicated to the petitioner vide letter dated 23.2.2011. The petitioner has also prayed for consequential reliefs, including the salary for the period 15.5.2008 till 1.1.2011, which according to the petitioner, had not been paid to him.

3. The petitioner was appointed as Junior Scientist-cum-Assistant Professor, and had been working as such in the University. On 25.8.2003, the petitioner was transferred and posted at Zonal Research Station, Dumka, but the petitioner did not join the post, though he had been relieved on 26.8.2003, directing him to

join at his transferred post. As the petitioner did not join at the transferred post, the petitioner was put under suspension vide order dated 29.10.2003, passed by the University, pending the departmental inquiry.

4. According to the petitioner's case, the petitioner had not been paid the subsistence allowance, but the Disciplinary Authority served the memo of charges to the petitioner on 6.12.2003, which has been brought on record as Annexure-1. The Disciplinary Authority vide letter No. 2460 dated 26.6.2004 imposed the punishment of dismissal upon the petitioner, against which the petitioner filed an appeal before the Appellate Authority, which, by order dated 10.6.2005, set aside the order of dismissal. The petitioner was again asked to appear before the Inquiry Committee on 29.7.2005 and he made objections regarding the constitution of the inquiry committee, whereupon another inquiry committee was constituted by the University vide order dated 21.7.2006.

5. It is stated in the writ application that without serving any inquiry report or without giving any second show cause notice, the punishment of dismissal from service was again imposed upon the petitioner, vide order dated 15.5.2008. An appeal was filed against this dismissal order by the petitioner, but the same was also dismissed by order dated 5.7.2009. Thereafter the application filed by the petitioner for reviewing the appellate order was also dismissed by the Appellate Authority.

6. Thereafter the petitioner filed a writ application before this Court, challenging his dismissal from service, which was registered as W.P. (S). No. 1558 of 2010. The said writ application was allowed by order dated 4.11.2010, as contained in Annexure-2 to the writ application. The said order shows that nothing concrete had been placed before the Court so as to establish that the inquiry report had been served upon the petitioner. This Court also found that no second show cause notice was given to the petitioner before his dismissal from service and taking into consideration Clause 13.9 of the Statute of the Birsa Agricultural University, this Court passed the following directions:-

"Simple reading of sub-clause (3) and (4) of Clause 13.9 do indicate that the disciplinary authority on receiving the enquiry report, if proposes to impose major punishment then the ground on which he proposes to pass order of major punishment needs to be communicated to the delinquent so that the delinquent may make an effective representation and only then after taking into consideration the representation, the disciplinary authority is required to pass major punishment.

In the instant case, the University has not come forward with the plea that any such ground, on which dismissal order was passed had ever been communicated to the petitioner so as to enable him to file effective representation.

Thus, the impugned order of dismissal as contained in Annexure-4 is fit to be set aside. At the same time, the order passed in appeal and also on review application as contained in Annexures 9 and 14 respectively are also fit to be set

aside as the learned appellate authority failed to take into consideration that on account of non-observance of the statutory provision, the impugned order of termination suffers from illegality.

Accordingly, the orders as contained in Annexures 4, 9 and 14 are hereby set aside. Hence, this writ application is allowed. However, the disciplinary authority will be at liberty to proceed with the matter relating to imposition of penalty in accordance with law."

Emphasis supplied

7. Thereafter the second show cause notice was issued to the petitioner vide letter No. 4883 dated 6.12.2010, which has been brought on record as Annexure-4 to the writ application. In the second show cause notice, the previous actions, misbehavior, disobedience, misconduct etc., committed by the petitioner have been discussed, but as regards the second show cause notice, it was stated as follows:-

"After hearing the parties on 4.11.2010, the Hon"ble High Court set aside the order of dismissal on the ground that copy of the enquiry report was not given and you were not provided right of hearing before the order of dismissal was passed. So, the direction of the Hon"ble High Court was required to be followed.

I have again gone through the entire records, chargesheet, enquiry report and the order of the Hon"ble High Court and I have come to a conclusion that on each and every points which you raised, you must be heard since the enquiry officers in its report has given its finding against you on 19.9.2006. So, agreeing with the findings of the enquiry officer and on the allegations of non joining by you at the transferred place and being absent for such a long time without any authority, it has become necessary for the University to proceed in this matter after allowing you to avail right of hearing within a period of fifteen (15) days from the date of receipt of this show cause.

The charges leveled against you and in the Enquiry Report all the allegations have been proved. So, before passing any order, you are required to be heard in detail. Kindly be present before the undersigned (Vice-Chancellor) on 21.12.2010 at 11.00 AM with your reply so that after hearing you, a fresh order may be passed according to law. If you fail to do so within the stipulated period of time, it shall be presumed that you have nothing to say and final order shall be passed accordingly. A copy of Enquiry Report along with chargesheet is also enclosed."

8. The petitioner has replied the second show cause by his letter dated 21.12.2010 (Annexure 5), which though is not very happily worded, but he has stated as follows:-

"1. That, the laws that have compelled you to ask for a second show cause (directly) in pursuance to the Hon"ble High Court order dated 4.11.2010, may please be furnished.

2. That, annexure of the charge sheet viz. statement of the imputations of misconduct or misbehavior into definite and distinct articles or charge, which shall contain the statement of all relevant facts including any admission or confession made by the delinquent employee, list of documents by which, and a list of witnesses by whom, the article of charge are proposed to be sustained, may please be provided.

3. That, the day to day proceedings of the said enquiry (which to my mind was not conducted in accordance with law) be provided."

9. Thereafter the final order dated 3.1.2011 has been passed by the Vice-Chancellor of the University (Annexure 6), whereby, the petitioner has been informed that he has been removed from the service of the University with immediate effect, concluding that the misconduct, indiscipline behavior, and willful disobedience committed by the petitioner are sufficient to pass the removal order against him. The petitioner filed his appeal before the Chancellor of Universities, and by letter dated 4.7.2011, contained in Annexure-11 to the writ application, the petitioner was informed that his appeal dated 10.1.2011 filed against the order dated 3.1.2011 had already been considered and rejected by the Chancellor of the Universities, which was communicated to the petitioner vide letter dated 23.2.2011, as enclosed. The letter dated 23.2.2011 only shows that the Chancellor of the Universities did not find any merit in the matter. Aggrieved thereby, the present writ application has been filed by the petitioner, challenging his removal from service.

10. Before entering into the rival submissions of the petitioner and learned senior counsel appearing for the University, it would be appropriate to look into the charges served upon the petitioner and the findings of the Enquiry Committee thereon, as also as to how they were arrived at. Detailed memo of charges have been brought on record as Annexure-1 to the writ application. Though the memo of charges is lengthy one and it mentions several letters/applications either written by the petitioner or by the University to the petitioner, but none of these letters/applications have formed part of the memo of charges, which clearly shows that they were never served upon the petitioner. Shorn of unnecessary details, the memo of charges, which was given to the petitioner relates to the following charges in short:-

(i) That the petitioner had made allegations against Dr. M.S. Yadav, the Senior Scientist-cum-Associate Professor vide letter dated 22.1.2003 in derogatory manner. The petitioner had also asked for permission to lodge the FIR against Dr. M.S. Yadav. The petitioner was asked to explain his negative attitude before the Enquiry Committee with respect thereto. Though many letters are mentioned in this charge, but none of them form part of memo of charge.

(ii) That the petitioner submitted casual leave application for four days from 11th August, 2003 to 14th August, 2003 and the application was signed by him on 9.8.2003 and addressed to the Dean, Faculty of Forestry, directly and not

through proper channel. The said request of the petitioner for casual leave was disallowed by the Dean, by letter dated 14.8.2003. The petitioner was also absent on 9.8.2003. The petitioner must have the knowledge of normal procedure that the leave cannot be granted as a matter of right. Again with this charge also, the letter of the Dean was not attached.

(iii) That without sanction of leave, the petitioner must not have proceeded on leave. Though he was transferred vide order dated 25.8.2003 to Z.R.S. Dumka, and he was also relieved by the Director Research by his letter dated 26.8.2003 to join at Z.R.S. Dumka, but in spite of reporting to Z.R.S. Dumka, the petitioner engaged in political pairvi and approached one M.L.A. He was asked to explain before the Enquiry Committee as to why said entry should not be made in the service book of the petitioner and the disciplinary proceeding be started against him.

(iv) That on 26.8.2003, the petitioner wrote a letter to the Dean, Forestry Faculty for extension of leave up to 6.9.2003, on the ground of his illness at the native place, without attaching any medical treatment certificate and even the nature of leave sought for was not indicated in the letter. This showed that the petitioner was on duty on 26.8.2003, but he had left the duty without receiving transfer order as well as relieving order and willfully and deliberately evaded the receipt of the lawful order of the University. Again there is mention of several letters/applications in this charge, but none of them were made part of the memo of charge.

(v) That the petitioner submitted his joining on 1.10.2003 along with his medical certificate of fitness from the University Doctor at Ranchi, though, according to the record, he had fallen ill at his native place. Since the petitioner was not under the treatment of Doctor of the University, said certificate amounted to a case of cheating both against the Doctor and the University and accordingly, he was directed to explain before the Enquiry Committee as to why a case of cheating and forgery be not lodged against him in the police station.

(vi) That from the attendance register, it was found that he was absent on 9.8.2003 and he did apply for casual leave w.e.f. 11.8.2003 to 14.8.2003. He was asked to explain before the Enquiry Committee as to how he was absent on 9.8.2003 and why his salary for one day be not stopped.

(vii) That the petitioner was once again directed to join at Z.R.S. Dumka within two days from the date of issue of memo No. 295 dated 21.10.2003, but again he failed to joint at Z.R.S. Dumka. Again this letter mentioned in this charge has not been made the part of the memo of charges.

11. Though, on the basis of this memo of charges, the punishment of dismissal from service was imposed upon the petitioner vide letter No. 2460 dated 26.6.2004, as stated earlier, the appeal filed against the said order was allowed by the Appellate Authority by order dated 10.6.2005, setting aside the order of dismissal and the petitioner was again asked to appear before the Enquiry

Committee and a fresh inquiry was held. This inquiry report has been brought on record as Annexure M to the supplementary counter affidavit filed on behalf of the respondent University, which shows that the Enquiry Committee meeting was held on 10.8.2006, in which the petitioner had also appeared. However, the inquiry report clearly shows that no evidence was recorded, no document was proved and no departmental proceeding as such, had been held. The petitioner, in his reply to the second show cause notice, extracts of which have been quoted above, had clearly asked for supplying the documents mentioned in the charge-sheet, the list of documents, and the list of witnesses by whom the charges were proposed to be substantiated. The petitioner had also asked for supplying the day to day proceeding of the Enquiry Committee, but it appears that none of these were provided to the petitioner by the University. In its supplementary counter affidavit, the University has brought on record a letter No. 529 dated 4.2.2012 written by the Director Administration of the University to the Dean, Faculty of Agriculture, asking him to submit day to day inquiry proceeding, which has been replied by the Dean, Faculty of Agriculture, by letter No. 59 dated 9.2.2012, stating that the Chairman of the Enquiry Committee is not supposed to keep these records, which has to be kept by the Member Secretary of the committee and as such, such letters should not be sent to him. Both these letters have been brought on record by the University by way of Annexures-R and R/1 to the supplementary counter affidavit filed by it, and these letters clearly give an impression that there was neither any day to day proceeding in the enquiry, nor they were made available to the petitioner. The enquiry report dated 19.9.2006, which has been brought on record as Annexure-M to the supplementary counter affidavit, shows that following findings were given by way of observations of the Enquiry Committee :-

(a) As regards charge No. (i) relating to the allegations made by the petitioner against Dr. M.S. Yadav, the Enquiry Committee observed that after examining the allegations and counter allegations, the Committee felt that in absence of any eyewitness, the facts could not be verified.

(b) As regards Charges Nos. (ii) and (vi) relating to the casual leave application and proceeding on leave w.e.f. 11.8.2003 to 14.8.2003 as also the charge relating to be absent on 9.8.2003, the Enquiry Committee observed that this fact was admitted by this petitioner.

(c) As regards charge No. (iii), that though he was transferred to Z.R.S. Dumka for joining the said post, but instead of reporting to Z.R.S. Dumka, he engaged in political pairvi, the inquiry committee held that this charge could not be substantiated in support of any document showing that the petitioner had requested any politician for help.

(d) As regards charge No. (iv), i.e., proceeding on casual leave, which was disallowed by the competent authority and also for making application for extension of the leave, the Enquiry Committee observed that the petitioner was present on 26.8.2003 but left the office due to sudden illness to consult the

physician, as claimed by the petitioner, but the statement of the petitioner was not true, and he should also have mentioned the type of leave to be granted and to have routed the leave application through proper channel, which was an omission on his part which he should take care in future.

(e) As regards Charge No. (v) relating to joining report dated 1.10.2003 along with the Medical Certificate given by the University doctor, the Enquiry Committee observed that the committee felt that the petitioner remained absent willfully to avoid receiving the transfer/relieving order, but again stated that it was very difficult for the committee to establish that actual reasons for remaining on leave for such a long period.

(f) As regards charge No. (vii), i.e., the petitioner, did not join at Z.R.S. Dumka in spite of letter dated 21.10.2003, it was observed by the Enquiry Committee that the petitioner had not obeyed the University order.

It is apparent from the enquiry report that even as regards the charges, which have been substantiated against the petitioner, there is no discussion of any evidence on record and the findings are absolutely non-speaking. However, the charges (i), (iii) and (v) part, were not proved.

12. The petitioner, who has argued his case in person, has submitted that the entire proceeding against him is absolutely vitiated, he was not served with necessary documents along with the memo of charges during the enquiry, and no disciplinary proceeding was ever held. Without any proper proceeding, the observations against the petitioner have been given by the Enquiry Committee. It is submitted by the petitioner that the fact that there was no disciplinary proceeding, is evident from the letters issued by the Director Administration to the Dean and its reply given by the Dean, which have been brought on record by the University as Annexures-R and R/1 to the supplementary counter affidavit. It is further submitted by the petitioner that even though this Court by order dated 4.11.2010 passed in the earlier W.P. (S). No. 1558 of 2010 had clarified the law that if the disciplinary authority proposed to impose the major punishment then the ground on which he proposed to pass the order of major punishment needs to be communicated to the delinquent, but the same has also not been followed by the respondents, inasmuch as, in the second show cause notice, it was nowhere stated as to what punishment was proposed to be imposed upon the petitioner. It is submitted that the second show cause notice given to the petitioner is not in accordance with law and accordingly, the impugned order dated 3.1.2011, imposing the punishment of removal from service upon the petitioner is again absolutely illegal, being in contravention of clause 13.9 of the Statute of the University. There is also violation of the principles of natural justice and the impugned order is absolutely vitiated on this count as well.

13. In support of his contention, the petitioner placed reliance upon the decision of the Supreme Court of India in State of U.P. and Others Vs. Saroj Kumar Sinha, , wherein it has been held as follows:-

"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 un rebutted 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.

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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.

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39. The proposition of law that a government employee facing a departmental enquiry is entitled to all the relevant statements, documents and other materials to enable him to have a reasonable opportunity to defend himself in the departmental enquiry against the charges is too well established to need any further reiteration.-----."

(Emphasis supplied).

The petitioner, placing reliance upon this decision, has submitted that the relevant documents were never supplied to the petitioner, no witness was ever examined in the proceeding and in the present case the Enquiry Committee had proceeded in the manner as if it were the representative of the respondent University. The petitioner accordingly, submitted that impugned order, imposing the punishment of removal from service upon him cannot be sustained in the eyes of law. Consequently, even the order passed by the Appellate Authority cannot be sustained in the eyes of law and the petitioner is entitled to be reinstated with all the consequential benefits. The petitioner has also given an undertaking by way of supplementary affidavit filed on 3.2.2014, that he is ready to joint at the post as per the direction of the Vice-chancellor and during his arguments, he has also submitted that he is ready to join at the Z.R.S. Dumka.

14. Learned counsel arguing for the respondent University on the other hand, has submitted that there is no illegality in the impugned order. It has been

submitted by learned counsel for the University that the petitioner had always adopted the defiant attitude. The Enquiry Committee was constituted and reconstituted and the petitioner was given the opportunity of hearing, but he always imputed motives on the Enquiry Committee and the Disciplinary Authority, questioning their very authority to pass the order. It has been submitted by learned counsel that non-mentioning of the proposed punishment in the second show cause notice is not of any consequence, as taking into consideration the totality of the circumstances and gravity of the matter, only dismissal order could have been passed against the petitioner. It has been submitted that proper opportunity for explaining his position was always given to the petitioner and only after taking into consideration the submissions of the petitioner, the impugned order has been passed. It is further submitted by learned counsel for the University that after issuing the memo of charges, the petitioner never replied as to why he did not join at Z.R.S. Dumka, and he has no bona fide reason for the last 11 years as to why he was not ready to join at the Z.R.S. Dumka. It is submitted by learned counsel that only in the Court he has shown his willingness to join at Z.R.S. Dumka, but nothing can be done at this stage now, after the punishment of removal from service has been imposed upon him. It is also submitted by the learned counsel that the University is now not in a position to reconsider its decision and accept his joining at Z.R.S. Dumka.

15. Learned counsel has placed reliance upon the decision of the Supreme Court of India in *Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc.*, wherein it has been held that in some cases, the non-furnishing of the report of the Inquiry Officer may have prejudiced the employee gravely while in other cases it may have made no difference to the ultimate punishment awarded to him. Whether in fact prejudice has been caused to the employee or not on account of the denial to him of the report has to be considered on the facts and circumstances of each case. Where, therefore even after the furnishing of the report, no different consequence would have followed, it would be a perversion of justice to permit the employee to resume duty and to get all the consequential benefits, as it shall amount to rewarding the dishonest and the guilty and thus to stretching the concept of justice to illogical and exasperating limits. In this connection, learned counsel also placed reliance upon the decisions of the Supreme Court of India in *Shadi Lal Gupta Vs. State of Punjab*, and in *Sarv U.P. Gramin Bank Vs. Manoj Kumar Sinha*. Placing reliance on these decisions, learned counsel has accordingly, submitted that there is no illegality in the impugned order.

16. These decisions however, are not of any relevance now, and need not be discussed in detail, in view of the fact that the earlier order of dismissal passed against the petitioner was quashed by this Court on the ground of non-supply of the enquiry report also, and thereafter the second show cause notice was issued to the petitioner, which shows that the copy of the enquiry report was furnished to the petitioner, and in any event, it has also been brought on record by the University as Annexure-M to the supplementary counter affidavit. As such, the

question of non-supply of enquiry report is no more involved in this case.

17. Having heard both the parties and upon going through the record, I find that though pursuant to the order of this Court passed in W.P. (S) No. 1558 of 2010 as contained in Annexure 2 to the writ application, the petitioner was given a second show cause notice by the respondent University, but the proposed punishment was not mentioned in the second show cause notice, in spite of the clarification of the law by this Court in the order dated 4.11.2010 passed in W.P. (S) No. 1558 of 2010 (Annexure 2). In my considered view, the final order dated 3.10.2011, imposing the punishment of removal from service upon the petitioner, contained in Annexure 6 to the writ application, cannot be sustained on this ground alone.

18. Moreover, the second show cause notice states that the charges leveled against the petitioner and all the allegations have been proved in the enquiry report. As it is apparent from the observations of the enquiry report as detailed above, the charges (i), (iii) and (v) part, were not proved. This clearly shows the non-application of mind by the Disciplinary Authority in giving the second show cause notice to the petitioner. The enquiry report also clearly shows that no witness was ever examined and no document relied upon by the Enquiry Committee was ever proved. The memo of charges as contained in Annexure 1 to the writ application clearly shows that though there are mention of several applications/letters of the petitioners as well as of the University to the petitioner, but none of them were made part of the memo of charges and it is apparent from the record that they were not served upon the petitioner in spite of the fact that they were specifically demanded by the petitioner. There is no discussion in the enquiry report as to how the conclusions were reached by the Enquiry Committee. Only the charges have been stated and the findings of the Enquiry Committee in the form of observations have been mentioned, without discussing any evidence and without giving any reasoning, which clearly shows that the Enquiry Report is absolutely a non-speaking report.

19. The record thus, clearly shows that the Enquiry Committee had not offered proper opportunity to the petitioner to defend his case, as even the documents relied upon by the Enquiry Committee, if any, have not been made available to the petitioner. Indeed the letters contained in Annexures-R and R/1, which have been brought on record by the University itself, show that there was no proceeding at all and even day to day enquiry proceeding was not available.

20. For the forgoing reasons, I find force in the contention of the petitioner that the Enquiry Committee had proceeded in the manner as if it were the representative of the respondent University. In my considered view, the facts of this case are fully covered by the decision of the Supreme Court in State of Uttar Pradesh and Ors., Vs. Saroj Kumar Sinha (supra), as relied upon by the petitioner and the entire proceeding against the petitioner is absolutely vitiated and cannot be sustained in the eyes of law.

21. Consequently, I find and hold that the final order dated 3.1.2011 passed by the Vice-Chancellor of the University as contained in Annexure 6 to the writ application, imposing the punishment of removal from service upon the petitioner, is absolutely illegal, being in contravention of clause 13.9 of the Statute of the University, as also being in violation of the principles of natural justice and fair play. As such, even the order passed by the Appellate Authority as communicated to the petitioner by letter dated 23.2.2011 rejecting the appeal filed by the petitioner against the order passed by the Disciplinary Authority, also cannot be sustained in the eyes of law. Accordingly, both these orders, are hereby, quashed, and the petitioner is reinstated on his post with all consequential benefits. The petitioner has given an undertaking in the Court that he shall join on his transferred post at Z.R.S. Dumka, and accordingly, he is directed to give his joining at the said place. The respondent University is directed to accept the joining of the petitioner and if for any reason, the said post is not vacant, the petitioner shall report his joining to the Registrar of the University, who shall communicate the fresh place of posting to the petitioner, which shall be acceptable to the petitioner and his joining shall be accepted only from the date he reports at the place of his posting as given by the respondent No. 2.

22. Taking into consideration the allegations against the petitioner that he remained absent without leave and that he did not give his joining at his transferred place of posting, as also taking into consideration the fact that this is the third order of punishment, which has been quashed by this Court, I find that the petitioner has been sufficiently punished for his disobedience, if any, in challenging the three illegal dismissal/removal orders passed against him since the year 2004 itself, repeatedly. As such, no further action is warranted against the petitioner, in case there is no further disobedience by the petitioner in joining at Z.R.S. Dumka, or at the fresh place of posting as the case may be.

23. This writ application is accordingly, allowed with the directions as above. The I.A. No. 2681 of 2012 also stands allowed.