

**(2025) 06 JH CK 0890**  
**In the Jharkhand High Court**  
**Case No : W.P.(S) No.3456 Of 2020**

Ram Janam Mishra

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

**Date of Decision :** 09-06-2025

**Acts Referred:**

Indian Penal Code, 1860 — Section 409

**Citation :** (2025) 06 JH CK 0890

**Hon'ble Judges :** Ananda Sen, J

**Bench :** Single Bench

**Advocate :** Rajeeva Sharma, Om Prakash, Birendra Kumar, Neetu Singh, Rukmini Kumari, Mithilesh Singh

**Final Decision :** Allowed

## Judgement

Ananda Sen, J

1. In this writ petition, petitioner has prayed to quash the order date 18.02.2020 (Annexure-2) issued by the respondent-Vice Chancellor, Sido Kanhu Murmu University, whereby the petitioner has been terminated from service with retrospective effect i.e. from 30.01.2012.

2. Learned Senior counsel appearing on behalf of the petitioner submitted that the petitioner could not have been dismissed retrospectively. Even if the dismissal order had to be given effect to, the same should be prospective in nature. He submitted that when the petitioner has already superannuated with effect from 31.12.2006, his dismissal order with effect from 30.01.2012 is absolutely bad. Further, he argued that the allegation against the petitioner is that he was involved in stealing or misappropriating 11,833 books from the library of the College, but details of the books were not placed during the departmental proceeding. In a most perfunctory manner, the order of dismissal was passed.

3. Learned counsel appearing on behalf of the State submitted that petitioner

was punished by the Criminal Court as he was convicted for committing offence under Section 409 of IPC. Sentence imposed was imprisonment for three years. Since the petitioner has been punished in criminal case, his dismissal is justified. Further submitted that it was found that the petitioner was involved in defalcation of books from the library which caused great loss to the University, thus, by following the procedure of law, petitioner was terminated. Learned counsel for the State has further taken a plea that the petitioner has suppressed the fact of his conviction during the internal inquiry. It has also been submitted that the criminal appeal against this aforesaid order of conviction was also dismissed, which has also been suppressed by the petitioner before the University. Considering the aforesaid dismissal, the University dismissed the petitioner from the date of his conviction. The charge against the petitioner is grave, which warrant dismissal of the petitioner.

4. The petitioner was appointed as Librarian on 02.03.1973 at Sahibganj College. The proceeding was initiated against the petitioner and after conclusion of the said proceeding, the petitioner was terminated vide order dated 27.05.1999 and upheld by the Chancellor, Sido Kanhu Murmu University, Dumka vide order dated 09.11.2000. The petitioner approached the Hon'ble High Court in C.W.J.C. No.156 of 2001, challenging the aforesaid order. The Hon'ble Single Judge held that a proper opportunity was not given to the petitioner and the findings which were arrived at, against the petitioner, was behind his back and there is nothing to show as what was the material on which the Inquiry Officer had reached to the conclusion that the charges levelled against the petitioner stands proved. The matter was remanded to the authorities for fresh consideration after giving proper opportunity of hearing to the petitioner and the impugned orders were quashed by the High Court. The aforesaid writ petition was allowed 20.06.2013. The Vice-Chancellor, thereafter considered the case of the petitioner and after giving an opportunity of hearing, dismissed the petitioner again retrospectively with the effect from 30.01.2012 i.e. the date when the criminal case against the petitioner ended in his conviction. Be it noted that the criminal case being G.R. No.137 of 1997 ended in conviction of the petitioner on 30.01.2012 under Section 409 of IPC and the petitioner was sent to undergo rigorous imprisonment for three years on the charge that he was involved in defalcation of 11,833 books. This action has led to filing of this writ petition.

5. From the materials on record, I find that the petitioner was earlier removed from service in 1999. The said order was challenged before the Hon'ble High Court in C.W.J.C. No.156 of 2001 and the dismissal order was set aside on 20.06.2013. The fact remains that the petitioner in the meantime retired from service on 31.12.2006. The impugned dismissal order was passed on 18.02.2020 giving it a retrospective i.e. with effect from 30.01.2012 i.e. the date when the petitioner was convicted by the Trial Court. From the aforesaid dates mentioned above, it is clear that employer-employee relationship between the petitioner and the employer came to end on 31.12.2006. When the relationship came to an end on 31.12.2006, he could not have been dismissed from service with effect from

30.01.2012 as admittedly on that date, he was not in service. An employee can be dismissed at any time when he remains in his service, but after the relationship of employee and employer ends, there cannot be any removal or dismissal of such employee, who is not even in the rolls of the company. Only an employee who is the rolls of the employee can be dismissed.

6. So far as retrospective dismissal is concerned, the Hon'ble Supreme Court in the case of State Bank of Patiala and Another vs. Ram Niwas Bansal (Dead) through Legal Representatives, reported in (2014) 12 SCC 106 has held that a dismissal order cannot be made retrospective in operation.

7. Be it noted that the petitioner in this case has been dismissed, retrospectively and the date of dismissal is taken to be 30.01.2012 when admittedly, on that date he was not in the rolls of the respondents as he has already retired, Thus, the date which has been chosen by the respondents to give retrospectivity is also bad.

8. The respondents chose 30.01.2012 as the date of his dismissal on the ground that he was convicted by the Court on that date. Even if the petitioner has been convicted on that date, by no means, it could have been the date of his dismissal as admittedly on that date itself, he was not an employee of the University as he has already retired on 2006. When the person is not an employee, this Court fails to understand how he can be dismissed. Thus, the dismissal order dated 30.01.2012 and impugned order 18.02.2020 is absolutely bad and set aside.

9. Accordingly, the instant writ petition stands allowed. The petitioner is entitled for all the consequential benefits.