
(2026) 01 JH CK 1807
In the Jharkhand High Court
Case No : Writ Petition(S) No.5503 Of 2022

Ramesh Oraon, son of Late Akalu Oraon	APPELLANT
Vs	
State Of Jharkhand	RESPONDENT

Date of Decision : 13-01-2026

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2026) 01 JH CK 1807

Hon'ble Judges : Ananda Sen, J

Bench : Single Bench

Advocate : Subodh Kumar Pandey, Kishore Kr. Singh

Final Decision : Dismissed

Judgement

Ananda Sen, J

1. Heard learned counsel representing the petitioner and learned counsel representing the respondents.
2. By filing this writ petition, the petitioner who is a Police Constable challenges the order as contained in Memo No.6851 dated 22.07.2013 (Order No.5/13), whereby on conclusion of the departmental proceeding, the petitioner had been dismissed from service. Further, the Appellate Order dated 23.03.2020 is also under challenge. The petitioner also prays for reinstatement.
3. Learned counsel representing the petitioner submits that without following the principles of natural justice, the petitioner has been dismissed from service. As per him, the witnesses were examined in the departmental proceeding in absence of petitioner. He lastly submits that the punishment imposed is too harsh.
4. Learned counsel representing the respondent-State opposes the aforesaid prayer and submits that the charge-sheet was issued to the petitioner but the petitioner did not choose to appear in the entire proceeding. He further submits

from the records that even the officials had gone to the house of the petitioner to serve the notices but the wife and the brother of this petitioner have stated that the petitioner always remains in intoxicated condition as he drinks in his house and even the petitioner has no interest to join duty in spite of efforts by his family members. He submits that being in a Disciplined Force, the petitioner should have maintained the discipline, and his long absence without any reason is sufficient to dismiss him. He lastly submits that there is no procedural illegality or irregularity in the entire process.

5. Admittedly, the petitioner is in Uniformed service. He is a Police Constable. A person who is in a uniform service must maintain utmost discipline.

6. The allegation against the petitioner is that at about 10:10 A.M. on 06.12.2012, he was found absent from his duty. Charge-sheet was submitted on 19.12.2012. It is the case of the respondents that thereafter the petitioner never joined duty. When the charge-sheet was sent to the address of the petitioner, the petitioner did not appear in the entire departmental proceeding. Time and again opportunity was given to the petitioner but he did not avail the same. The witnesses were examined by the Department to prove the charge. The evidence clearly proves the charge against the petitioner. The enquiry report was furnished. A copy of the enquiry report was also sent to the address of the petitioner.

7. The Appellate Order suggests that one Police official namely Surendra Singh was sent to the residential house of the petitioner to give information about the case but the family members of this petitioner clearly stated that this petitioner regularly remains under the influence of alcohol and in spite of their best efforts, he is not going to attend his duties. The aforesaid facts clearly suggest that opportunity was given to the petitioner to defend himself but he did not avail the same. The second show cause notice was also issued but the situation remains the same. Thereafter, the punishment order was passed dismissing the petitioner from service as the charge was proved.

8. The Appeal was filed and the Appellate Authority in details considered the Appeal and thereafter dismissed the same.

9. In a departmental proceeding, the scope of interference under Article 226 of the Constitution of India is very limited. This Court does not sit as an Appellate Authority to reappreciate the evidence and materials.

10. The Hon'ble Supreme Court in the case of Director General of Police, Railway Protection Force and Others versus Rajendra Kumar Dubey reported in 2020 SCC OnLine SC 954 at paragraph 21.1 thereof, has held that it is well settled that High Court cannot act as an Appellate Authority and re-appreciate the evidence, which was led before the enquiry officer. By referring to judgment in the case of State of Andhra Pradesh Vs. S. Sree Rama Rao [1963 AIR SC 1723], the Hon'ble Supreme Court has held that it is not the function of the High Court to review the findings and arrive at a different finding. In a departmental

proceeding, scope is very limited and it is well settled that the High Court can interfere where the departmental authority has acted against the principles of natural justice or where the findings are based on no evidence or in violation of the statutory rules provided. Further, if the punishment imposed is excessive, the Court can also interfere. It has also been held by the Hon'ble Supreme Court that under Article 226 and 227 of the Constitution of India, the High Court shall not:-

- (i) re-appreciate the evidence;
- (ii) interfere with the conclusions in the enquiry, in the case the same has been conducted in accordance with law;
- (iii) go into the adequacy of the evidence; (iv) go into the reliability of the evidence;
- (v) interfere, if there be some legal evidence on which findings can be based;
- (vi) correct the error of fact however grave it may appear to be;
- (vii) go into the proportionality of punishment unless it shocks its conscience.

11. In this case, I find that there is no procedural illegality or irregularity committed by the employer while conducting the departmental proceeding. The Enquiry Officer also acted properly while conducting the enquiry and submitting the report. The charges thus were proved. There is no material before me to disagree with the aforesaid finding on the ground of perversity or on the ground of "No Evidence".

12. So far as the quantum of punishment is concerned, the prerogative to punish the delinquent-employee is of the employer. The quantum of punishment must be assessed by the employer and it is not the Court who can substitute its view.

13. The Hon'ble Supreme Court in the case of Lucknow Kshetriya Gramin Bank v. Rajendra Singh reported in (2013) 12 SCC 372, at para-19, has held as hereunder:-

"19. The principles discussed above can be summed up and summarised as follows:

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.

19.4. Even in such a case when the punishment is set aside as shockingly disproportionate to the nature of charges framed against the delinquent employee, the appropriate course of action is to remit the matter back to the disciplinary authority or the appellate authority with direction to pass appropriate order of penalty. The court by itself cannot mandate as to what should be the penalty in such a case.

19.5. The only exception to the principle stated in para 19.4 above, would be in those cases where the co-delinquent is awarded lesser punishment by the disciplinary authority even when the charges of misconduct were identical or the co-delinquent was foisted with more serious charges. This would be on the doctrine of equality when it is found that the employee concerned and the co-delinquent are equally placed. However, there has to be a complete parity between the two, not only in respect of nature of charge but subsequent conduct as well after the service of charge-sheet in the two cases. If the co-delinquent accepts the charges, indicating remorse with unqualified apology, lesser punishment to him would be justifiable.”

14. In this case, since the petitioner is in Disciplined Force and remained unauthorizedly absent for a considerable period of time, the respondents deemed it fit to dismiss the petitioner from service, thus I find no reason to interfere with the order of punishment.

15. With the aforesaid observations, this writ petition stands dismissed.