



\$~64

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Decided on: 20.08.2025***

+ **W.P.(C) 12462/2025**

SHANKAR SAHANI

.....Petitioner

Through: Mr. Rishav Ranjan, Mr. Mayank Madhu, Mr. Kartik Sharma, Mr. Shivraj Singh Tomar & Mr. Shikhar Rusia, Advocates alongwith Petitioner in Person.

versus

GOV OF NCT DELHI & ANR.

.....Respondents

Through: Mr. Yeeshu Jain, ASC with Ms. Jyoti Tyagi & Ms. Priya Shukla, Advocate for R-1.
Mr. Anuj Chaturvedi, Ms. Richa Dhawan & Ms. Shivani Thakur, Advocates for DUSIB/R-2.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

CM APPL. 50706/2025 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 12462/2025 & CM APPL. 50705/2025 (interim relief)

1. By way of this writ petition under Article 226 of the Constitution, the petitioner assails an office order dated 24.05.2024, by which the respondent No.2 – Delhi Urban Shelter Improvement Board [“DUSIB”]



imposed a “100% cut in provisional pension for life time”, and an appellate order dated 13.09.2024, which affirmed the aforesaid order.

2. The petitioner joined the Jhuggi Jhopri [“JJ”] Department, Delhi Development Authority [“DDA”], as an Enumerator on 08.01.1975. Upon creation of DUSIB in the year 2010, the petitioner’s services were transferred to it. The petitioner retired from DUSIB on 31.05.2010.

3. While the petitioner was in service, a complaint dated 24.01.2001, alleging corruption in the functioning of the Department, was lodged with the Anti-Corruption Department, Civil Lines. Subsequently, on 18.05.2001, FIR No. 29/2001 was registered, in which the petitioner, along with a few others, was named as an accused.

4. After the petitioner’s retirement, the criminal proceedings culminated in a judgment dated 28.02.2017, passed by the Special Judge (PC Act), (ACB), Central-05, whereby the petitioner and others were convicted under Section 13(1)(d)(ii) of the Prevention of Corruption Act, 1988, and Section 120B and 420 of the Indian Penal Code, 1860, read with, Sections 511, 468 and 471 of the Indian Penal Code, 1860. By a consequent order dated 06.03.2017, he was sentenced to four years’ simple imprisonment and a fine of Rs.25,000/-.

5. The petitioner was, thereafter, served with a show cause notice dated 22.12.2023, issued by DUSIB, referring to the aforesaid orders of conviction and sentence, and proposing the imposition of penalty under Rule 19 of the Central Civil Service (Classification, Control and Appeal) Rules, 1965 [“CCS (CCA) Rules, 1965”], read with Rule 9 of the CCS (Pension) Rules, 1972 [“Pension Rules, 1972”], taking into account the gravity of the criminal charges proved against him. The petitioner was



also afforded an opportunity to submit his representation against the proposed penalty.

6. In his representation dated 08.01.2024, the petitioner submitted that he had filed Criminal Appeal No. 523/2017 before this Court, challenging the aforesaid judgment and order on sentence, and relied upon the grounds and contentions raised in that appeal. He further noted that he was already receiving provisional pension from the department. The petitioner contended that Rule 19 of the CCS (CCA) Rules, 1965, read with Rule 9 of the CCS Rules, 1972, were not applicable in his case, owing to the pendency of his criminal appeal. He also referred to certain personal circumstances, and submitted that no penalty ought to be imposed upon him.

7. The petitioner was granted a personal hearing by the Disciplinary Authority.

8. By the impugned order dated 24.05.2024, the Disciplinary Authority of DUSIB, taking into account the gravity of the charges established against the petitioner, imposed a “100% cut in pension for life time”. The petitioner’s statutory appeal was dismissed on 13.09.2024, also after granting him personal hearing.

9. It is in these circumstances, that the petitioner has approached this Court under Article 226 of the Constitution.

10. I have heard Mr. Rishav Ranjan, learned counsel for the petitioner, and Mr. Anuj Chaturvedi, learned counsel for respondent No. 2 – DUSIB.

11. The impugned action has been taken by DUSIB, invoking its powers under Rule 19 of the CCS (CCA) Rules, 1965, and Rule 9 of the Pension Rules, 1972. The relevant extracts of the Rules are as follows:-



(i) **Rule 19 of CCS (CCA) Rules, 1965:**

“19. Special procedure in certain cases

Notwithstanding anything contained in Rule 14 to Rule 18 –

- (i) where any penalty is imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge, or*
- (ii) where the Disciplinary Authority is satisfied for reasons to be recorded by it in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these rules, or*
- (iii) where the President is satisfied that in the interest of the security of the State, it is not expedient to hold any inquiry in the manner provided in these rules.*

the Disciplinary Authority may consider the circumstances of the case and make such orders thereon as it deems fit:

[Provided that the Government servant may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under Clause (i):

Provided further that the Commission shall be consulted, where such consultation is necessary, [and the Government servant has been given an opportunity of representing against the advice of the Commission] [within the time-limit specified in Clause (b) of sub-rule (3) of Rule 15] before any orders are made in any case under this rule.]”

(ii) **Rule 9 of Pension Rules, 1972¹:**

9. Right of President to withhold or withdraw pension

[(1) The President reserves to himself the right of withholding a pension or gratuity, or both, either in full or in part, or withdrawing a pension in full or in part, whether permanently or for a specified period, and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Government, if, in any departmental or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of service, including service rendered upon re-employment after retirement:

Provided that the Union Public Service Commission shall be consulted before any final orders are passed:

Provided further that where a part of pension is withheld or withdrawn, the amount of such pensions shall not be reduced below the amount of (Rupees Three thousand five hundred) per mensem.

(2) (a) The departmental proceedings referred to in sub-rule (1), if

¹ Rule 9 of the CCS (Pension) Rules, 1972, have been replaced by Rule 8 of the CCS (Pension) Rules, 2021, which is in substantially similar terms.



instituted while the Government servant was in service whether before his retirement or during his re-employment, shall, after the final retirement of the Government servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service:

Provided that where the departmental proceedings are instituted by an authority subordinate to the President, that authority shall submit a report recording its findings to the President.

(b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement, or during his re-employment,—

- (i) shall not be instituted save with the sanction of the President,*
- (ii) shall not be in respect of any event which took place more than four years before such institution, and*
- (iii) shall be conducted by such authority and in such place as the President may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.”²*

12. Mr. Ranjan submits that the impugned proceedings were without jurisdiction, as Rule 9(2)(b)(ii) of the Pension Rules, 1972, bars the institution of departmental proceedings in respect of any event which took place more than four years before they were instituted. He further submits that the criminal proceedings culminated in the petitioner’s conviction in 2017 and, therefore, could not be used in proceedings which commenced 2023.

13. On a plain reading of Rule 9(1) and Rule 9(2) of the Pension Rules, 1972, extracted above, I am unable to agree. Rule 9(1) specifically reserves the right of the employer to withdraw pension, in full or in part, if the pensioner is found guilty of grave misconduct or negligence during the period of service. This finding may be rendered in any departmental or judicial proceedings. Rule 9(2) applies only where the withdrawal of



pension is based on a finding of misconduct in departmental proceedings. It lays down the conditions that such departmental proceedings must satisfy. In the present case, however, the impugned orders are based on findings recorded in judicial proceedings which, on a proper interpretation, are not governed by Rule 9(2) of the Pension Rules, 1972.

14. Mr. Ranjan submits that proceedings under Rule 9 of the Pension Rules, 1972, by which pension is withdrawn, themselves amount to “departmental proceedings”, and are thus, subject to Rule 9(2) of the CCS Rules, 1972. In my view, this argument is misconceived. The “departmental proceedings” referred to in Rule 9(2) are the proceedings in which the predicate finding of misconduct is recorded, not the proceedings in which the consequent penalty of withdrawal of pension is imposed.

15. In the present case, the petitioner was served with a show-cause notice and was afforded personal hearing at both stages of the proceedings. No procedural infraction is urged in respect of the proceedings.

16. Turning to the merits of the impugned orders, the conclusions are based on a careful consideration of the judgment of conviction, and the findings recorded therein. In the judgment dated 28.02.2017, the role of the petitioner was discussed in detail and the Court observed as follows:-

“61. Be that as it may, the culpability of accused Ram Charan Kamal and Shankar Sahani in the conspiracy is clearly reflected from the notings in Ex. PW9/B (the file which showed the movement of the applications of 13 questioned JJ Dwellers). Record reveals that IO/PW21 had mis-stated ‘the facts regarding the number of locked jhuggi cases dealt by Lock Committee. As per Ex. PW21/B1

² Emphasis supplied.



to Ex. PW21/B28, only 13 cases of JJ dwellers were dealt with by the members of Lock Committee i.e. Ram Charan Kamal and Shankar Sahani. In the case of remaining 15 JJ dwellers, allotment on provisional basis had already been made to them in December 2000 by accused Kundan Lal. So far as the 13 locked cases were concerned, the names of these 13 locked cases were found mentioned in Ex. PW9/B which reveals that despite accused Kamlesh Gupta/FI reporting on 25.01.2001 on Pg 3/N that occupants of jhuggies mentioned at SI.No.1 to 12 are located in the pocket which is not eligible to be shifted/relocated and occupant of jhuggi mentioned at SI.No.13 has already been shifted, the **Members of Lock Committee i.e. accused Shankar Sahani and Ram Charan Kamal deliberately ignored the noting and recommended the names of fictitious 13 JJ Dwellers for allotment of alternative plots. The complicity in conspiracy is also established from the fact that when they dealt with the applications of these 13 JJ dwellers, they deliberately ignored the addresses given in the ration cards of the fictitious occupants.** The bare perusal of their rations cards reveal that the occupants were occupying jhuggies in Gautam Puri-I which is a large area. Since the address did not mention that the jhuggi was 'located opposite Players Building in Gautam Puri-I which was only a small part of Gautam Puri-I, the question which begs answer is how did the members of the Lock Committee ascertain that the applicants were residents of Gautam Puri-I, Opp. Players Building without verifying the said fact.

62. In view of the aforesaid discussion, **complicity of accused Ram Charan Kamal and Shankar Sahani in the conspiracy is stand proved beyond reasonable doubt.**³

17. In the order of sentence dated 06.03.2017, the Trial Court further observed as follows:-

“9 Considering the nature of offence, no lenient view can be taken against the convicts. **The convicts public servants namely Kundan Lal , Ram Charan Kamal and Shankar Sahni held an extremely powerful position** and they were to charter the course of destiny of deserving poor JJ dwellers by allotting plots to them. **Instead, they for their ill-motives and to earn illegal wealth for themselves and convict properly dealer R.S.Sandhu joined hands with him to deprive the rightful owners of their rights to possess plots against their jhuggi.** With power comes the responsibility is a proverb which needs no

³ Emphasis supplied.



*explanation. "Corruption is worst than prostitution. The latter might endanger the morals of an individual, the former invariably endangers the morals of the entire country" by Karl Kraus is a quote which is an insight to a corrupt society. We as citizen of India are under a moral obligation to crush the ugly head of corruption so that it may not raise its head again."*⁴

18. In view of these findings in the criminal proceedings, the respondents cannot be faulted for concluding that the misconduct established against the petitioner was grave in nature. The petitioner has failed to meet the high standard required to warrant judicial review of the employer's decision in such a matter.

19. Mr. Ranjan lastly submits that the only finding against the petitioner was one of negligence, and that the withdrawal of pension for the remainder of his life, particularly after several years of retirement, is disproportionate.

20. Even on this ground, I do not find any basis to interfere with the aforesaid impugned orders. The quantum of punishment to be imposed upon an employee is, as a general rule, within the domain of the employer, and the writ court would interfere only where the punishment is so disproportionate as to shock the conscience of the Court⁵. In the present case, the findings recorded by the Trial Court go beyond mere negligence, and establish a deliberate and conscious disregard of material on record, in order to recommend fictitious individuals for allotment of plots. In such circumstances, I do not find any lack of proportionality in the punishment imposed, much less one that shocks the conscience of the Court. Therefore, no interference with the order passed by the

⁴ Emphasis supplied.

⁵ *Lucknow Kshetriya Gramin Bank v. Rajendra Singh* [(2013) 12 SCC 372], [paragraph 13]



respondents is warranted.

21. The only remaining issue is whether the petitioner would have any recourse, in the event he succeeds in the pending criminal appeal. On this aspect, Mr. Chaturvedi, upon instructions, confirms that in the event the petitioner is successful in the appeal, he may bring the same to the notice of the respondents, and the respondents will take an appropriate decision at that stage.

22. For the aforesaid reasons, the writ petition is dismissed, with these observations.

PRATEEK JALAN, J

AUGUST 20, 2025

'pv/sd'/'