IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A. No. 212 of 2025

1. State of Jharkhand through the Principal Secretary, Water Resources Department, Government of Jharkhand, Ranchi
2. The Joint Secretary, Water Resources Department, Government of Jharkhand, Ranchi
3. The Chief Engineer, Water Resources Department, Government of Jharkhand, Deoghar
4. The Superintending Engineer, Design Circle, Water Resources Department, Deoghar
5. The Executive Engineer, Minor Distributary Division, Kuldangal, Camp Nala, Jamtara

... ... Appellants

Versus

1. Rajendra Prasad Yadav, son of Late Krishna Prasad Yadav, Treasury Guard, Office of the Executive Engineer, Minor Distributary Division, Kuldangal, Camp Nala, District- Jamtara, resident of Village- Karapura, P.O. & P.S.- Saraiyahat, District- Dumka

2. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna

... … Respondents

CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR

For the Appellants : Mr. Ashwini Bhushan, A.C. to Sr.S.C.-II
For the Respondent No. 1 : Mr. Arvind Kumar Singh, Advocate
For the Respondent No. 2 : Mr. Ranjit Kumar, A.C. to G.A., Bihar

-----

Order No. 05 **Dated: 18.03.2026**

I.A. No. 10875 of 2024

1. Heard learned counsel for the parties.

2. This I.A. seeks condonation of delay of 164 days in instituting this appeal.

3. We have considered the averments in the interim application and the response of the respondent no.1/writ petitioner to the same.

4. Upon considering the averments, we are satisfied that sufficient cause has been shown. Accordingly, we condone the delay and dispose of this I.A.

L.P.A. No. 212 of 2025

5. With the consent of learned counsel for the parties, after condoning the delay, we have taken up this appeal for consideration.

6. This appeal is directed against the learned Single Judge's order dated 20.03.2024 passed in W.P.(S) No. 1595 of 2013 by which the respondent no.1/writ petitioner was directed to be paid full salary for the period between 24.02.1995 and 09.09.2008 during which he remained under suspension pending the conclusion of disciplinary proceedings initiated against him.

7. The record shows that the respondent no. 1/writ petitioner was dismissed from service upon the conclusion of disciplinary proceedings. However, the Hon'ble Patna High Court set aside this dismissal and remanded the matter to the disciplinary authority for fresh consideration. Upon remand, the disciplinary authority imposed a minor penalty of censure upon the respondent no.1/writ petitioner with a rider that, other than the subsistence allowance, he would not be entitled to salary for the suspension period. The suspension period was, however, directed to be counted for computing pensionary benefits.

8. Aggrieved by the above order imposing a penalty of censure and denying full salary during the suspension period, the respondent no.1 instituted W.P.(S) No. 1595 of 2013 before this Court. This petition was partly allowed by the impugned judgment and order wherein the penalty of censure was not interfered with, but directions were issued to pay the entire salary during the suspension period.

9. The learned counsel for the appellants has relied on Rule 97 of the Jharkhand Service Code, 2001 (in short, "the Service Code"), to submit

that the direction to pay full salary during the suspension period was contrary to the rules.

10. Rule 97(2) of the Service Code provides that where the authority mentioned in sub-rule (1), is of the opinion that the Government servant has been fully exonerated, or in the case of suspension, that it was wholly unjustified, the Government servant shall be given full pay and allowance to which he would have been entitled, had he not been dismissed, removed or suspended, as the case may be.

11. In this case, admittedly, a penalty of censure was imposed upon the respondent. 1/writ petitioner after remand. This penalty was not set aside by the court. Therefore, it cannot be said that the respondent no.1/writ petitioner was fully exonerated or that his suspension was wholly unjustified. Therefore, the direction to pay the full salary during the suspension period is vulnerable.

12. At the same time, we find that in terms of proviso (i) to Rule 96(1)(a) of the Service Code, the respondent no.1/writ petitioner's subsistence allowance had to be increased to 75% if the inquiry was prolonged beyond 12 months for reasons not directly attributable to the government servant.

13. In this case, there is nothing on record to indicate that the respondent no.1/writ petitioner was responsible for prolonging the inquiry against him. Further, there is nothing on record to show that the respondent no. 1/writ petitioner's subsistence allowance was indeed increased to 75% after 12 months of his being placed under suspension. Even the disciplinary authority's order imposing censure directed that the respondent no.1/writ petitioner, would not be paid anything over and above the subsistence allowance. This expression "subsistence

allowance" must be interpreted to mean the subsistence allowance payable under the rules, which, in the present case, would be 75% of the salary for the period beyond 12 months of the date of the suspension.

14. Accordingly, we set aside the direction for payment of full salary during the suspension period and substitute it with a declaration that the respondent no. 1/writ petitioner was entitled to 75% of the salary from 25.02.1996 to 09.09.2008. Further, we direct the appellants to pay the differential amount to the respondent no. 1/ writ petitioner on the said basis within a period of eight weeks from today, failing which, the differential amount will attract interest @ 7% per annum, which interest will have to be paid by the appellants to the respondent no.1/writ petitioner within a period of four weeks thereafter. After paying this interest component, the appellants should conduct an inquiry as to which officer was responsible for the delay and recover this amount of interest from such officer's salary, no doubt, after complying with the principles of natural justice and fair play. This direction is without prejudice to any action under our contempt jurisdiction should the occasion arise.

15. The appeal is partly allowed in the above terms without any order for costs.

16. Pending application (s), if any, also stand disposed of.

(M. S. Sonak, C.J.)

(Rajesh Shankar, J.)

March 18, 2026
Ritesh/Pawan
N.A.F.R.
Uploaded on 19.03.2026