IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P (S) No. 6582 of 2024

Dhananjay Kumar Sinha, aged about 40 years, son of Late Dr. Ram Das Sinha, resident of Near Gold Gym, Magister Colony, Doranda, P.O. & P.S.-Doranda, District-Ranchi (Jharkhand) **..... Petitioner**

V E R S U S

1. The State of Jharkhand
2. The Principal Secretary, Agriculture, Animal Husbandry and Co-operative Department, having its office at Nepal House, Doranda, P.O. & P.S.-Doranda, District-Ranchi (Jharkhand). **..... Respondents**

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

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For the Petitioner(s) : Mr. Saurabh Shekhar, Advocate
For the Resp.-State : Mr. M.K.Roy, G.A.-I

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C.A.V. ON: 29/08/2026 **PRONOUNCED ON:04/11/2026**

1. Heard learned counsel for the parties.

2. The instant writ application has been preferred by the petitioner praying therein for the following reliefs:

> ***(i)*** *For issuance of appropriate writ(s), order(s), direction(s) specifically a writ in the nature of certiorari, for quashing and setting aside of entire departmental proceeding initiated vide resolution as contained in Memo No. 635, dated 27.03.2006 (Annexure-1), by respondent no.2, and also order contained in memo No.1743, dated 01.10.2008 (Annexure-3), issued by respondent no.2, whereby, the order of punishment of withholding of one increment with cumulative effect has been passed against the petitioner;*
> ***(ii)*** *For issuance of appropriate writ(s), order(s), direction(s) specifically a writ in the nature of mandamus, commanding upon the respondent authority to grant arrears of salary and other consequential benefits, including the calculation of increment in favour of the petitioner, in consequence of setting aside of the order of punishment dated 01.10.2008;*
> ***(iii)*** *For issuance of appropriate writ(s), order(s), direction(s) specifically a writ in the nature of mandamus, commanding upon the respondent authority to dispose of the representation, taking it as an appeal, lying pending before the respondents, preferred against the order of punishment, and also in view of the fact that in the case of the similarly situated employee, arising out of the same incident, he has been exonerated of all charges at the stage of appeal to the original departmental proceeding and order of punishment as passed against that employee;*

3. The case in a nutshell is that one departmental proceeding was initiated against the petitioner, vide Govt.

Resolution as contained in Memo No. 638, dated 27.03.2006 (Annexure-1). The said Govt. memo contains that the departmental proceeding is being initiated under the provisions of *Rule 55* of the *Civil Services (Classification, Control and Appeal) Rules, 1930* and along with it, one memo of charge was also enclosed and served upon the petitioner. Therefore, a departmental proceeding for alleged misconduct, coming under major punishment had been initiated against the petitioner and the charges were levelled against him. Pursuant to this, the Inquiry Officer was appointed and enquiry was conducted. Thereafter, enquiry report was submitted before the disciplinary authority and on the basis of the enquiry report, the punishment order has been passed on 01.10.2008. The punishment order dated 01.10.2008 has been put to challenge.

4. The case of the petitioner is that the order of punishment has been passed, without service of the enquiry report upon the petitioner. The punishment passed is a major punishment, which is stoppage of one increment with cumulative effect, as it will have its ever-lasting impact, until the date of retirement. Hence, this writ application.

5. Ld. Counsel for the petitioner had submitted that the petitioner had also preferred representations, but the respondents have not considered the same and the punishment passed against the petitioner has remain untouched. Further he

submitted that the case of the petitioner is on similar footing as that of one *Dr. Subodh Kumar Mandal*, therefore, the petitioner should also be given same relief what was given to *Dr. Mandal* vide order dated 19.11.2019 in *W.P.(S) No. 2618 of 2009*.

6. *Per contra,* Ld. Counsel for the respondents had fairly submitted that the enquiry report was not furnished to the petitioner and further admitted that no second show cause notice was given to the petitioner against the said departmental proceedings.

7. He, however, submitted that the petitioner had made no challenge to the punishment order in question for more than a decade and he relied on the Hon'ble Supreme Court's judgment in the case of ***Mrinmoy Maity v. Chhanda Kolfy & Ors.*** reported in ***2024 INSC 314*** praying to dismiss the case on the case of delay and latches.

8. Having heard Ld. Counsel for the rival parties and upon perusal of the materials available on record, it transpires that a departmental proceeding had been initiated way back in the year 2006 vide Memo dated 27.03.2006 and thereafter an enquiry was conducted. Pursuant to submission of the Enquiry Report, a punishment order dated 01.10.2008 was passed which has been assailed on the ground that the order of punishment was passed without service of the enquiry report.

9. Now, this case is to be considered from the view and the contention of the respondents that there is delay in approaching the Court challenging the order of punishment.

10. The respondents, do not deny that copy of the enquiry report was not supplied to the petitioner and that it suffers from violation of the principles of natural justice and the mandate of Hon'ble Supreme Court as settled in the case of ***M/D, ECIL Vs. B. Karunakar*****,** reported in ***(1993) 4 SCC 8727***.

11. It is settled principles of service jurisprudence that the copy of the enquiry report has to be served upon the delinquent employee and over that enquiry report, he would have opportunity to submit his reply before the disciplinary authority.

12. This opportunity has admittedly not been provided to the petitioner. The Court in the case of ***M/D, ECIL*** *(supra)*, has held in clear terms that it is mandatory in any departmental proceeding to serve the copy of enquiry report and particularly when the punishment passed has major impact, on the service conditions of the employee.

13. It is also settled that the punishment of stoppage of one increment with cumulative effect is a major punishment. Additionally, the regular departmental proceeding was initiated against the petitioner, under the provisions of *Rule 55* of the *Civil Services (Classification, Control and Appeal) Rules, 1930*, which is a proceeding against an alleged mis-conduct, which may result

in passing of major punishment. Under such circumstances, it was necessary for the respondent authorities to service a copy of the enquiry report to the petitioner and demand a reply to that. In the absence of this, the order of punishment passed cannot be sustained in the eyes of law.

14. As far as the contention of the respondents with regard to delay and latches is concerned in light of the ***Mrinmoy Maity*** *(supra)*; this Court is of the opinion that the Petitioner's case is different from the said case. Further, the Hon'ble Apex Court in the case of ***Rushibhai Jagdishbhai Pathak vs. Bhavnagar Municipal Corporation***, reported in ***(2022) 18 SCC 144***, has held that the ground of delay is not strictly applicable in the case of pay-scale, particularly as the cause of action is recurring in nature and with every new day, the person suffers loss of salary due to erroneous fixation of pay-scale, or for that matter, when there is any loss of any increment. For brevity, the relevant portion of the said judgment is quoted hereinbelow:

> ***"10.*** *At the same time, the law recognises a "continuing" cause of action which may give rise to a "recurring" cause of action as in the case of salary or pension. This Court in M.R. Gupta v. Union of India [M.R. Gupta v. Union of India, (1995) 5 SCC 628 : 1995 SCC (L&S) 1273], has held that so long as the employee is in service, a fresh cause of action would arise every month when they are paid their salary on the basis of a wrong computation made contrary to the rules. If the employee's claim is found to be correct on merits, they would be entitled to be paid according to the properly fixed pay scale in future and the question of limitation would arise for recovery of the arrears for the past period. The Court held that the arrears should be calculated and paid as long as they have not become time-barred. The entire claim for the past period should not be rejected.*
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> ***11.*** *Relying upon the aforesaid ratio, this Court in Union of India v. Tarsem Singh [Union of India v. Tarsem Singh, (2008) 8 SCC 648 : (2008) 2 SCC (L&S) 765] , while referring to the decision in Shiv Dass v. Union of India [Shiv Dass v. Union of India, (2007) 9 SCC 274 : (2007) 2 SCC (L&S) 395] , quoted the*

following passages from the latter decision : (Shiv Dass case [Shiv Dass v. Union of India, (2007) 9 SCC 274 : (2007) 2 SCC (L&S) 395] , SCC p. 277, paras 8 & 10)

"8. … The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.

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10. In the case of pension the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. … If petition is filed beyond a reasonable period say three years normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years."

12. *In Tarsem Singh [Union of India v. Tarsem Singh, (2008) 8 SCC 648 : (2008) 2 SCC (L&S) 765] , reference was also made to Section 22 of the Limitation Act, 1963, and the following passage from Balakrishna Savalram Pujari Waghmare v. Shree Dhyaneshwar Maharaj Sansthan [Balakrishna Savalram Pujari Waghmare v. Shree Dhyaneshwar Maharaj Sansthan, 1959 SCC OnLine SC 68 : AIR 1959 SC 798] , which had explained the concept of continuing wrong in the context of Section 23 of the Limitation Act, 1908, corresponding to Section 22 of the Limitation Act, 1963, observing that : (Balakrishna Savalram Pujari Waghmare case [Balakrishna Savalram Pujari Waghmare v. Shree Dhyaneshwar Maharaj Sansthan, 1959 SCC OnLine SC 68 : AIR 1959 SC 798] , SCC OnLine SC para 31)*

"31. … It is the very essence of a continuing wrong that it is an act which creates a continuing source of injury and renders the doer of the act responsible and liable for the continuance of the said injury. If the wrongful act causes an injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue. If, however, a wrongful act is of such a character that the injury caused by it itself continues, then the act constitutes a continuing wrong. In this connection, it is necessary to draw a distinction between the injury caused by the wrongful act and what may be described as the effect of the said injury.""

(Emphasis supplied)

15. In view of the aforesaid discussion, the Court is of the considered opinion that the petitioner is suffering loss of one increment with cumulative effect, which is recurring in nature, and is in the form of a major punishment. Accordingly, it is necessary that before passing such an order, the principles of natural justice should be followed.

16. Accordingly, the impugned order of punishment dated 01.10.2008 is, hereby, quashed and set aside. The matter is remitted to the disciplinary authority. The respondents are directed to serve a copy of the enquiry report upon the petitioner and entertain reply to that. Thereafter, the departmental proceeding should proceed from the stage after the enquiry report is to be supplied to the Petitioner, with a further direction that reply of the Petitioner to it should be considered and thereafter, the disciplinary authority shall take final decision on the delinquency of the petitioner, within a period of 12 weeks from the date of receipt/production of a copy of this order.

17. As a result, the instant writ application stands allowed in the manner indicated hereinabove. Pending I.A., if any, also stands closed.

(Deepak Roshan, J.)

Dated:04 / 11/ 2026
Amardeep/
A.F.R
Uploaded
5.11.2026