**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**W.P(S). No. 6633 of 2023**

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Avinash Chandra Deogharia, aged about 66 years, son of Late Sudhir Chandra Deogharia, resident of House No. E-31, Sector-3, H.E.C. Township, P.O and P.S Dhurwa, District Ranchi, Jharkhand **.....Petitioner(s)**

**Versus**

1. Chairman, Board of Directors, Heavy engineering Corporation Ltd. having Office at Plant Plaza Road (HEC Headquarters), Dhurwa, P.O and P.S Dhurwa, District Ranchi Jharkhand
2. Chairman-Cum-Managing Director, Heavy Engineering office at Corporation Ltd., having Plant Plaza Road (H.E.C. Headquarters), Dhurwa, P.O. and P.S. Dhurwa, District Ranchi (Jharkhand).
3. Director (Personnel), Heavy Engineering Corporation Ltd., having office at Plant Plaza Road (H.E.C. Headquarters), Dhurwa, P.O. and P.S. Dhurwa, District Ranchi (Jharkhand) **.....Respondent(s)**

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**CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN**

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For the Petitioners : Mr. Vijay Bahadur Singh, Advocate
For the Respondents : Mr. Rajiv Ranjan, Sr. Advocate
: Mr. Sonal Tiwary, Advocate

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**12/ Dated: 07.09.2026**

1. The instant application has been preferred by the Petitioner for following relief(s):

***i.*** ***For quashing and setting aside the order of punishment dated 18.10.2018 issued by the 2nd Respondent whereby and whereunder, the petitioner has been punished for reduction by two stages in the time scale of pay (Rs. 43200-66000) as on date of superannuation i.e. 31.01.2017 reducing the pay from Rs. 55,980- 52,770/-, and to quash the Memorandum of Charges No. CMD/PS/2017-693 dated 18.10.2017 issued under the signature of Sri Abhijeet Ghosh, Chairman-Cum-Managing Director and Disciplinary Authority and also for quashing the entire enquiry proceeding and report thereof. And to issue direction to the Respondent Nos. 1 and 2 to exonerate petitioner from the charges on the lines of one of the delinquent employee Sri Jayant Kumar, Ex-Chief of Corporate Planning by the Board of Directors vide Communication No. HEC/CMD/18-564 dated 29.12.2018. (Annex.2)***

***ii. For issuance of writ of certiorari for quashing of punishment order dated 26.06.2021 Order No. HEC/DP/Dis Mgt/2021-139 reducing to one stage lower from basic rate on which his pay had been fixed after implementation of which was of his punishment order, which was effective from the time of his superannuation i.e. on 31.01.2017 in the time scale of pay (Rs. 43,200-66,000/-) in E-7 grade, whereby now his basic pay shall reduce to Rs. 52,770/- to 51,230/- under the signature of Respondent No.3 read with Memorandum of charges bearing No. 221A dated 10.12.2019 and entire enquiry report. (Annexure 6).***

***(iii) For issuance of writ of certiorari for quashing of punishment order dated 18.10.2021 issued vide Order No. HEC/DP/Dis Mgt/ACD/2021-276 reducing to one stage lower from basic rate on which his pay had been fixed after implementation of punishment order dated 26.06.2021 in the time scale of pay (Rs. 43,200-66,000/- in E-7 grade whereby now his basic pay shall reduce from 51,230/- to Rs. 49,730/- under the signature of Respondent No.3 read with Memorandum of charges bearing No. DP/PS/MoC/135 dated 16.02.2019 and entire enquiry report. Annexure 7)***

***(iv) To issue directions to release the consequential retiral benefits and leave salary along with interest.***

**2.** Briefly stated, the Petitioner was in service and served the Respondent-HEC for 34 years and on the date of superannuation, a release order was issued with a condition that there is a disciplinary proceeding contemplated against the Petitioner, hence he will be treated as on rolls for the purpose of disciplinary proceeding which has now been revised vide office Order dated 03.08.2023.

**3.** After the superannuation of the Petitioner, a charge-sheet was issued vide Annexure-2, and finally, impugned order has been passed whereby punishment has been imposed to the effect *"reduction by two stages in the time scale of pay (Rs. 43,200-66,000) as on the date of his superannuation i.e. 31.01.2017*; whereby the basic pay shall reduce from Rs. 55,980/- to Rs. 52,770/- under Rule 23(f) of the *HEC Employees' Conduct, Discipline & Appeal Rules, 1981*.

**4.** The only grievance/contention of the Petitioner is that though, the Petitioner retired on 31.01.2017, however, the charge-sheet was issued on 18.12.2017, and at the time of retirement, there was no pending departmental proceeding. He further relied upon the order passed by the Hon'ble Apex Court in the case of ***K.V. Jankiraman and Others***

reported in ***(1991)4 SCC 109 (Para-16)*** and contended that since the charge-sheet was issued after his superannuation; as such, *Rule 3 (a) of HEC Employees' Conduct, Discipline & Appeal Rules, 1981* of the Respondent- Company is misplaced and misconceived.

**5.** He further referred to Rule 3 (a) where a sentence is used *"……..... a departmental or judicial proceeding is contemplated or pending at the time of retirement….."*. As per the learned counsel for the Petitioner, the very meaning of contemplation is that the disciplinary proceeding is pending and only then this Rule 3(a), will come into play.

**6.** He further contended that when there was no pending departmental proceeding at the time of his retirement, any chare-sheet issued subsequently is *non-est* in the eye of law. He also submits that the law is very clear that any disciplinary proceeding commences with the issuance of the charge-sheet, and in the instant case it is 18.12.2017; and admittedly, the petitioner superannuated on 31.01.2017.

**7.** He further submits that initially when the Respondents were not taking any action pursuant to the letter dated 31.01.2017 (Annexure-1), he moved before this Court and the case travelled up to the Division Bench, and finally the Respondents were directed to take final action on the charge-sheet. Learned counsel reiterated that *Rule 3(a) of the HEC Employees' Conduct, Discipline & Appeal Rules, 1981*, will not protect the Respondents from initiating any action pursuant to his superannuation, as the law is very clear that the charge-sheet is a stage which indicates initiation of disciplinary proceeding. Accordingly, the whole proceeding is bad in law.

**8.** The Ld. Counsel for the Respondents relies upon the impugned order and submits that there is no jurisdictional error in passing the impugned order.

**9.** Having heard Ld. Counsel for the parties and after going through the documents available on record it transpires that the main thrust of argument of the of the Ld. Counsel for the Petitioner is that when on

the date of retirement i.e. 31.01.2017, merely informing the petitioner by letter that disciplinary case is contemplated against him, will not satisfy the requirement of law, as in any case after superannuation, the retired employee cannot be dragged into disciplinary proceeding, and admittedly, the charge-sheet was issued on 18.12.2017.

**10.** Accordingly, the sole question which is involved in the instant case is as to *whether the Respondents action in initiating the disciplinary proceeding against the petitioner after his superannuation is valid or not?*. In this regard it would be profitable to refer *Rule 3 (a) of HEC Employees' Conduct, Discipline & Appeal Rules, 1981*, which is extracted herein below:

> ***"Rule 3 (a) Employee: means any person in the employment of the Heavy Engineering Corporation Ltd (HEC), other than casual, work-charged or contingent staff or workmen as defined in clause (i) of Section 2 of the Industrial Employment Standing Orders Act, 1946 and includes a person who has either retired or superannuated from the services of the Corporation and against whom a departmental or judicial proceeding is contemplated or pending at the time of his retirement or superannuation."***
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> *Emphasis Supplied*

**11.** From bare perusal of the definition of Employee, it is crystal clear that while framing this *Discipline and Appeal Rules*, the Respondents were very much conscious and used the word *"Employee means……..and includes a person who has either retired or superannuated from the service of the Corporation and against whom a departmental or judicial proceeding is contemplated or pending at the time of his retirement or superannuation."*

**12.** The very use of the words *"contemplated or pending"* itself shows that the Respondents were having jurisdiction to initiate any departmental proceeding after the retirement of the delinquent and that is the reason why in the definition of employee they have added *"including a person against whom the departmental or judicial proceeding is contemplated or pending"*.

**13.** In other words, the delinquent employee who has retired shall be considered as an employee when any disciplinary proceeding or judicial proceeding is pending or it is contemplated.

14. At this stage, it is profitable to refer the very meaning of *"disciplinary proceeding is contemplated"*. It means that an employer or authority is actively considering or intending to start a formal enquiry or punishment process, but not yet officially launched it by issuing chargesheet.

**15.** Learned counsel during course of argument also relied upon the judgment of *UCO Bank & Anr. v.s. Rajendra Lal Capoor reported in (2007) 6 SCC 694 Para 21*. However, this court is of the view that the same is not applicable in view of the fact that the order in that case solely referred the *UCO Bank Officer Employee Service Regulation, 1979* and not the *HEC Employees' Conduct, Discipline & Appeal Rules, 1981*.

**16.** As aforesaid, in the instant case on the date of retirement an office order dated 31.01.2017 was issued wherein the Respondents have categorically mentioned that a disciplinary case is contemplated against him under Rule 3(a) of the *HEC Employees' Conduct, Discipline & Appeal Rules, 1981*: the petitioner shall be deemed to be employee of the Corporation.

**17.** Neither this letter has been challenged; nor the rules have been assailed which deals with the definition of employee and empowers the authority to initiate any proceedings after the retirement of an employee. The sole contention of the petitioner is that the law is very clear that a disciplinary proceeding is deemed to be initiated by the issuance of charge-sheet.

**18.** There is no quarrel with the settled proposition of law that any departmental proceeding is deemed to be initiated after issuance of charge-sheet, but the facts in the instant case is somewhere alien to the issue as argued by the learned counsel. The very definition of Employee in Rule 3(a), there is a reference of contemplation/pending

which itself shows that the Respondents are very much under jurisdiction to initiate any proceeding even after superannuation.

**19.** Having regard to the aforesaid discussions, no interference is required in the impugned order of punishment dated 18.10.2018 issued by the 2nd Respondent and accordingly, no relief can be granted to the Petitioner.

**20.** Accordingly, this writ application stands dismissed. However, there is no order as to cost.

**(Deepak Roshan, J.)**

**07.09.2026**
A.F.R.
Abha/-