IN THE HIGH COURT OF JHARKHAND AT RANCHI
**W.P.(S) No. 2662 of 2026**
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Arvind Thakur, aged about 50 years, son of Late Harihar Thakur, resident of Village & P.O.- Rondiyah, P.S.- Saraiyahat, District-Dumka .....**Petitioner**

**Versus**

1. The State of Jharkhand
2. The Divisional Commissioner, Santhal Pargana Division, Dumka, P.O. & P.S.- Dumka, District - Dumka.
3. The Deputy Commissioner, Dumka, P.O. & P.S.- Dumka, District - Dumka.
4. The Deputy Collector (Establishment), Dumka, P.O. & P.S.-Dumka, District - Dumka.
5. The Circle Officer, Saraiyahat Circle, P.O. & P.S.- Saraiayahat, District - Dumka.

**...Respondents**

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

For the Petitioner(s) : Mr. Kumar Harsh, Advocate
For the Respondents : Mr. Arun Kumar Dubey, A.C to G.P.-III
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**02/27.04.2026** The instant writ application has been preferred by the petitioner for quashing the order of dismissal dated 29.03.2025; whereby the petitioner has been dismissed from service. The petitioner has further assailed the appellate order dated 21.10.2025 which has sustained the order of dismissal. The petitioner has also prayed for consequential benefit including the back wages.

**2.** Briefly stated, the petitioner while posted as Nazir in the office of Circle Officer, Saraiyahat was suspended vide order dated 3.10.2017. The petitioner was issued charge-sheet v*ide* Memo dated 08.02.2018 and he filed his response to the charge-sheet.

In the meantime, the suspension of the petitioner was revoked *vide* order dated 14.07.2020 as

contained in Order No.95/2020. Thereafter, the petitioner was issued second show-cause notice dated 16.07.2024 along with enquiry report dated 29.6.2020 finding the petitioner to be guilty. The petitioner filed his reply on 20.07.2024 to the first and second show-cause notice. The petitioner was again issued second show-cause dated 01.10.2024, against which the petitioner filed his reply on 08.10.2024. For the third time, the petitioner was issued show-cause finding the previous replies to be unsatisfactory *vide* last show-cause dated 18.03.2025, against which the petitioner filed his reply on 21.3.2025. Finally, the petitioner has been dismissed from his service *vide* order dated 29.03.2025 as contained in Memo No. 245.

**3**. Thereafter, the petitioner preferred an appeal on the ground that no oral witness was adduced to prove the documents and therefore it is a case of *"No Evidence"*. The appellate authority vide order dated 21.10.2025 passed in Service Appeal No. 17/2025-26, without application of mind and in complete non-determining the issues and points raised by the petitioner has summarily dismissed the appeal of the petitioner and affirmed the order of punishment.

**4.** Learned counsel for the petitioner submits that neither any oral inquiry was conducted by the I.O.; nor any witness was produced by the prosecution department to prove the documents, and neither any of the documents

were exhibited, which makes it abundantly clear that it is case of *"No evidence".* The documents, which have been relied on by the prosecution has never been exhibited nor tendered during departmental proceedings. Only on pen and paper process was adopted in departmental proceedings. During the period of suspension, starting from 03.10.2017 to 17.07.2020, i.e. during the departmental proceeding, no subsistence allowance; nor any salary was paid to the petitioner. Neither any complainant was deposed, nor any witness was produced by the department in the departmental proceedings, and therefore, the opportunity of cross-examining the witnesses does not arise.

**5.** The contention of learned counsel for the petitioner by pointing out the Inquiry report that no oral witness has been examined in this case in order to prove the charge; this Court is of the considered opinion that now it is a settled principle of law that, save and except any document which is kept in ordinary course of business, the Inquiry officer has to take oral evidence in order to prove the charge against the delinquent and he should not become departmental representative.

**6.** This issue has been decided right from the judgment of ***Roop Singh Negi vs. Punjab National Bank***[1] followed by ***State of Uttar Pradesh vs. Saroj Kumar***

[1] (2009) 2 SCC 570

***Sinha***[2] and then in the case of ***Satyendra Singh Vs. State of Uttar Pradesh and Another*** [3] deciding the same principle that any charge is to be proved by oral evidence. Recently, also in the case of ***Jai Prakash Saini vs. Managing Director, U.P. Cooperative Federation Ltd.***[4] the same issue has been re-deliberated.

**7.** Learned counsel for the respondents defended the impugned order and submits that the petitioner has been charge-sheeted for a grave offence; however, he was unable to point out from the Inquiry report that any witness has been examined on the question of examination of oral witness in order to prove the charge has already been settled.

**8.** Having heard learned counsel for the parties and after going through the documents available on record and also the Inquiry report, it is crystal clear that there is no any reference of list of witness.

**9.** The Hon'ble Apex Court in the catena of judgments right from the celebrated judgment of ***Roop Singh Negi*** *(supra)* then in the case of ***Saroj Kumar Sinha*** *(supra)* has dealt the importance of Inquiry Officer and oral evidence.

[2] (2010) 2 SCC 772
[3] 2024 SCC OnLine SC 3325
[4] 2026 SCC OnLine SC 505

Recently also, in the case of ***Ram Prakash Singh*** *(supra)* and also in the case of ***Jai Prakash Saini*** *(supra)*, the same issue has been re-deliberated.

In the case of ***Ram Prakash Singh*** *(supra)* there is an observation of the Hon'ble Apex Court that since the judgment of ***Saroj Kumar Sinha*** *(supra)*, still the departments are committing the same mistake which is observed at para 16 of the said judgment. For brevity the relevant paragraphs of the aforesaid judgment passed by the Hon'ble Apex Court is extracted hereinbelow:

> "***13.*** *In Roop Singh Negi v. Punjab National Bank, it was held that an officer conducting an enquiry has a duty to arrive at findings in respect of the charges upon taking into consideration the materials brought on record by the parties. It has also been held therein that any evidence collected during investigation by an investigating officer against the accused by itself could not be treated to be evidence in the disciplinary proceedings.*
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> ***14.*** *What follows from a conjoint reading of the above two decisions is and what applies here is that, 'materials brought on record by the parties' (to which consideration in the enquiry ought to be confined) mean only such materials can be considered which are brought on record in a manner known to law. Such materials can then be considered legal evidence, which can be acted upon. Though the Indian Evidence Act, 1872 is not strictly applicable to departmental enquiries, which are not judicial proceedings, nevertheless, the principles flowing therefrom can be applied in specific cases. Evidence tendered by witnesses must be recorded in the presence of the delinquent employee, he should be given opportunity to cross-examine the witnesses and no document should be relied on by the prosecution without giving copy thereof to the delinquent - all these basic principles of fair play have their root in such Act. In such light, the documents referred to in the list of documents forming part of the annexures to the chargesheet, on which the department seeks to rely in the enquiry, cannot be treated as legal evidence worthy of forming the basis for a finding of guilt if the contents of such documents are not spoken to by persons competent to speak about them. A document does not prove itself. In the enquiry, therefore, the contents of the relied-on documents have to be proved by examining a witness having knowledge of the contents of such document and who can depose as regards its authenticity. In the present case, no such exercise was undertaken by producing any witness.*
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> ***15.*** *We may further refer to the decision of this Court in State of Uttar Pradesh v. Saroj Kumar Sinha[17] where disciplinary proceedings were drawn up against the respondent, Saroj Kumar Sinha, under the 1999 Rules itself with which we are concerned. Paragraphs 26 to 30 and 33 of the said decision being relevant are quoted below:*
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> > "***26.*** *The first inquiry report is vitiated also on the ground that the inquiry officers failed to fix any date for the appearance of*

*the respondent to answer the charges. Rule 7(x) clearly provides as under:*

> *'7. (x) Where the charged government servant does not appear on the date fixed in the inquiry or at any stage of the proceeding in spite of the service of the notice on him or having knowledge of the date, the inquiry officer shall proceed with the inquiry ex parte. In such a case the inquiry officer shall record the statement of witnesses mentioned in the charge-sheet in absence of the charged government servant.'*
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> *27. A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.*
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> *28. An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the unrebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.*
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> *29. Apart from the above, by virtue of Article 311(2) of the Constitution of India the departmental enquiry had to be conducted in accordance with the rules of natural justice. It is a basic requirement of the rules of natural justice that an employee be given a reasonable opportunity of being heard in any proceedings which may culminate in punishment being imposed on the employee.*
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> *30. When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service.*
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> ***
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> *33. As noticed earlier in the present case not only the respondent has been denied access to documents sought to be relied upon against him, but he has been condemned unheard as the inquiry officer failed to fix any date for conduct of the enquiry. In other words, not a single witness has been examined in support of the charges levelled against the respondent. The High Court,*

> *therefore, has rightly observed that the entire proceedings are vitiated having been conducted in complete violation of the principles of natural justice and total disregard of fair play. The respondent never had any opportunity at any stage of the proceedings to offer an explanation against the allegations made in the charge-sheet."*
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> *(emphasis ours)*
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> ***16. It appears that the appellant is yet to take lessons despite the admonition in Saroj Kumar Sinha (supra). The same kind of omissions and commissions that led to setting aside of the order of punishment imposed being upheld by this Court were repeated in the present case."***
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> ***(emphasis supplied)***

**10.** Having regard to the admitted position; the impugned order of dismissal and appellate order, both are quashed and set aside. The respondents are directed to reinstate the petitioner in service forthwith, but in any case not beyond the period of 6 weeks from the date of receipt of a copy of this order.

The matter is remitted to the stage of enquiry proceeding from the stage of examination of witness. Thereafter, the disciplinary authority shall pass a fresh order after following natural justice and settled proposition of law.

**11.** It goes without saying that so far as back wages is concerned; since the matter has already been remitted, the petitioner is not entitled for the same and the same is dependent on the fresh order.

**12.** So far as consequential benefits are concerned, the same shall be decided by the respondents and this court has not given any finding with regard to merits of the case or about the back wages.

**13.** Accordingly, the instant writ application is allowed. Pending I.A(s), if any, stands closed.

**(Deepak Roshan, J.)**

27th April, 2026
*Jk*
*Uploaded on*
*21/05/2026*