2026:JHHC:13169

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 5591 of 2022

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Samir Kumar Pandey, aged 49 years, son of Late Suresh Pandey, resident of E-702, Malti Luxaria City, Murtitand, Bokaro Steel City, Sector-6, Bokaro Steel City, P.O. Bokaro Steel City, P.S. Sector-6, Bokaro Steel City, District-Bokaro. **..... Petitioner (s)**

Versus

1. The State Bank of India through Chief General Manager, having office at West Gandhi Maidan, P.O. Patna, P.S. Patna, District Patna.

2. Deputy Chief General Manager, State Bank of India having its office at West Gandhi Maidan, P.O. Patna, P.S. Patna, District Patna.

3. General Manager cum Appointing Authority, State Bank of India having its office at West Gandhi Maidan, P.O. Patna, P.S. Patna, District Patna.

4. Chief Manager cum Inquiring Authority, State Bank of India having its office at West Gandhi Maidan, P.O. Patna, P.S. Patna, District Patna. **.....Respondent(s)**

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CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

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For the Petitioner(s): Mr. Arpan Mishra, Advocate
For the Resp.-Bank: Mr. Rajesh Kumar, Advocate

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C.A.V. ON: 27/04/2026 **PRONOUNCED ON:04 /05/2026**

1. Heard learned counsel for the parties.

2. The instant writ petition has been preferred by the petitioner for the following reliefs:-

a. For issuance of an appropriate writ, order or direction for quashing of the resolution contained in memo no. VIG / GEN / SK /19 dated 15.04.2019 (Annexure- 8) passed by the respondent no.3, whereby and where under petitioner has been imposed with a punishment of dismissal.
AND

b. For issuance of an appropriate writ, order or direction for quashing of the resolution contained in memo no. HR / A&R / 1969 dated 21.09.2019 / 23.09.2019 (Annxure-9) passed by the respondent no.1 in the appeal preferred by the petitioner, whereby and where under punishment of dismissal passed in resolution dated 15.04.2019 has been affirmed by the appellate authority.

AND

c. For issuance of an appropriate writ, order or direction for quashing of the resolution contained in memo no. A&R / SS / 51 dated 20.05.2020 / 23.07.2020 (Annexure- 10) passed by the Reviewing Committee in the review preferred by the petitioner, whereby and where under punishment of dismissal passed in resolution dated 15.04.2019 has been modified to "Removal from Service".

AND

d. Upon quashing of the resolutions dated 15.04.2019, 21.09.2019 / 23.09.2019 and 20.05.2020 / 23.07.2020 a direction may be issued to the respondent authorities for reinstatement of the Petitioner as a branch manager in the respondent bank with continuity in service and with all consequential benefits and full back wages.

And / Or

e. For any other relief or reliefs for which the petitioner is legally entitled in the facts and circumstances of the case.

3. The petitioner was appointed on the post of Clerk-cum-Cashier-cum-Typist on 15.09.1997 and in the year 2003, he was promoted to the post of Assistant Manager. In the year 2007, the petitioner was promoted to the post of Deputy Manager.

4. After discharging 21 years of continuous service, the petitioner was served with a Charge Memo dated 21.08.2018

issued by the Disciplinary Authority. The Article of Charges levelled against the petitioner was that while working as a Branch Manager at Tundoo Branch during the period from 01.10.2014 to 27.10.2016, he failed to discharge the duties with utmost devotion and diligence. It was alleged that due diligence was not followed by the petitioner in sanction of loan and serious irregularities were observed in sanction and post-sanction which ultimately resulted in N.P.A. and the petitioner failed to take recovery steps in N.P.A. accounts. It was alleged that the omissions and commissions on the part of the petitioner resulted in loss of Rs. 83.82 Lakhs to the bank. Thereafter, upon report of the enquiry officer the disciplinary authority imposed the punishment of dismissal which was subsequently only modified by the review committee to the punishment of removal. Hence, this writ application.

5. Learned counsel for the petitioner raised a legal ground that no oral witness has been examined in the case and drawn attention towards the charge memo which is giving reference of evidence and all are documentary evidence.

6. Learned counsel for the respondents submitted that the charges were grave, however, he could not dispute the facts that no oral witness was examined in order to prove the documentary evidence.

7. At this stage it is pertinent to mention here that the law in this regard is well settled that any document has to be proved by oral evidence. As a matter of fact, an enquiry officer has to act as an umpire and not as a representative of the respondents.

8. Having heard learned counsel for the parties and after going through the documents available on record; admittedly, in this case no oral witness has been examined in order to prove the document/charges levelled against the petitioner. The issue of examination of oral witness has been dealt repeatedly by the Hon'ble Apex Court right from the case of ***Roop Singh Negi versus Punjab National Bank*** reported in ***(2009) 2 SCC 570*** and further reiterated in the case of ***State of Uttar Pradesh Versus Saroj Kumar Sinha***, reported in ***(2010)2 SCC 772***. However, it has been seen in many cases that the authorities have not yet understood the importance of evidence of oral evidence.

9. Thereafter, again in the case of ***Satyendra Singh Vs. State of Uttar Pradesh and Another*** reported in ***2024 SCC OnLine SC 3325***, the Hon'ble Apex Court has held as under:

> *"13. This Court in a catena of judgments has held that the recording of evidence in a disciplinary proceeding proposing charges of a major punishment is mandatory. Reference in this regard may be held to Roop Singh Negi v. Punjab National Bank and Nirmala J. Jhala v. State of Gujarat.*

14. In the case of Roop Singh Negi, this Court held that mere production of documents is not enough, contents of documentary evidence have to be proved by examining witnesses. Relevant extract thereof reads as under:—

> "14. ***Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents.*** The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter-alia, was placed by *the enquiry officer on the FIR which could not have been treated as evidence.*
>
> *15. We have noticed hereinbefore that the only basic evidence whereupon reliance has been placed by the enquiry officer was the purported confession made by the appellant before the police. According to the appellant, he was forced to sign on the said confession, as he was tortured in the police station. The appellant being an employee of the Bank, the said confession should have been proved.* ***Some evidence should have been brought on record to show that he had indulged in stealing the bank draft book. Admittedly, there was no direct evidence. Even there was no indirect evidence****. The tenor of the report demonstrates that the enquiry officer had made up his mind to find him guilty as otherwise he would not have proceeded on the basis that the offence was committed in such a manner that no evidence was left.*
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> *…*
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> *19. The judgment and decree passed against the respondent in Narinder Mohan Arya case [(2006) 4 SCC 713 : 2006 SCC (L&S) 840] had attained finality. In the said suit, the enquiry report in the disciplinary proceeding was considered, the same was held to have been based on no evidence. The appellant therein in the aforementioned situation filed a writ petition questioning the validity of the disciplinary proceeding, the same was*

dismissed. This Court held that when a crucial finding like forgery was arrived at on evidence which is non est in the eye of the law, the civil court would have jurisdiction to interfere in the matter. ***This Court emphasised that a finding can be arrived at by the enquiry officer if there is some evidence on record****. ...”*

(emphasis supplied)

15. Same view was reiterated in State of Uttar Pradesh v. Saroj Kumar Sinha, wherein, this Court held that even in an ex-parte inquiry, it is the duty of the Inquiry Officer to examine the evidence presented by the Department to find out whether the unrebutted evidence is sufficient to hold that the charges are proved. The relevant observations made in Saroj Kumar Sinha are as follows:—

“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****.*

....

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.”*

(emphasis supplied)

10. Recently, the same issue was raised before the Hon'ble Apex Court in the case of ***State of Uttar Pradesh through Principal Secretary, Department of Pachayati Raj, Lucknow Vs. Ram Prakash Singh*** reported in ***2025 SCC OnLine SC 891*** and Hon'ble Apex Court after going through several previous judgments has reiterated the law as under:

> *"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.*
>
> *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.

15. We may further refer to the decision of this Court in State of Uttar Pradesh v. Saroj Kumar Sinha17 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:

> *"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.'*
>
> *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.*
>
> *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.

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.

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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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."

(emphasis supplied)

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."

11. After going through the aforesaid judgments, this Court is having no hesitation in holding that the oral witness is necessary to prove the documents and the charges levelled against the delinquent employee, which is absent in the instant case.

12. Therefore, for the sole reason of non-examination of oral witness by the bank, the order as contained in Memo No. VIG/GEN/SK/ 19 dated 15.04.2019 (Annexure-8), Appellate Order dated as contained in Memo No. HR/A&R/1969 dated 21.09.2019/ 23.09.2019 (Annexure-9) and the Review Order as contained in Memo No. A&R/SS/51 dated 20.05.2020/23.07.2020 (Annexure-10), are hereby, quashed and set-aside.

13. The respondent Bank shall reinstate the petitioner forthwith with all consequential benefits.

14. The respondents are at liberty to take appropriate action, if so advised.

15. Accordingly, the instant writ application stands allowed. Pending IAs, if any, are closed.

(Deepak Roshan, J.)

Dated:04/05/2026
Amardeep/

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05.05.2026