

Surendra Prasad, Aged about 65 Yrs S/o Late Pran Mohan Yadav, Resident of Bajpayee Path, Shukla Colony, Hinoo, Po- Hinoo, Ps- Doranda, Dist- Ranchi (Jharkhand)

Versus

1. The State of Jharkhand, Through the Chief Secretary, Government of Jharkhand, Project Building, Dhurwa, P.O. & P.S.-Dhurwa, Dist. Ranchi (Jharkhand)
2. The Principal Secretary, Road Construction Department, Government of Jharkhand, Project Building, Dhurwa, P.O. & P.S.-Dhurwa, Dist. Ranchi (Jharkhand)
3. The Principal Secretary, Rural Development Department (now Rural Works Department), Government of Jharkhand, Project Building, Dhurwa, P.O. & P.S.-Dhurwa, Dist.-Ranchi (Jharkhand)

4. The Deputy Secretary to the Government, Road Construction Department, Government of Jharkhand, Project Building, Dhurwa, P.O. & P.S. Dhurwa, Dist. Ranchi (Jharkhand) ..... **Respondent(s)**

..... Respondent(s)

With

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

For the Petitioner(s) : Mr. Ajit Kr., Sr. Advocate  
Mr. Rajeew Kr. Sinha, Advocate  
Mr. Vishnu Kr. Mehta, Advocate

For the Respondents : Md. Sahabuddin, S.C.-VII

Mr. Baibhaw Gahalut, A.C. to Sr. AAG

**C.A.V. ON: 17/06/2026**

**PRONOUNCED ON:14/08/2026**

1. Heard learned counsel for the parties.
2. Since, common issues are involved in the writ petitions filed by the same petitioner, they were heard together and are being disposed of by this common order, and the facts relevant to decide the main *lis* has been taken from W.P.(S) No. 4395 of 2025.
3. In W.P.(S) No. 4395 of 2025, the petitioner has made the following prayer:

*(i) For quashing of the order dated 28.10.2015 wherein the Respondent No. 4 vide Memo No. 7434 imposed punishment against the Petitioner in the light of departmental proceeding for reduction of pay of the Petitioner to minimum pay scale of his post and also quash the consequential order with regard to proportionate recovery of amount from the Petitioner as loss caused to the Government Exchequer (Annexure-7).*

*(ii) For direction upon the concerned Respondent to pay the Petitioner the amount which was deducted from his actual salary or deferential arrears of salary & other benefits which has not been paid to the Petitioner as he found guilty on the ground that the Petitioner made countersigned over the alleged 12 fake invoices placed by the contractor before the Executive Engineer with regard to purchasing of Bitumen.*

*(iii) For quashing of entire departmental proceeding as the same is utter violation of Rule 55 of the Civil Services (Classification, control & Appeal) Rule, 1930 (Herein after called as C.C & A Rule 1930);*

*(iv) For grant of such other relief/reliefs for which the Petitioner would be entitled in the facts and circumstances of the present case.*

4. In W.P.(S) No. 4521 of 2025, the petitioner has made the following prayer:

*(i) For quashing of the order dated 23.10.2015 wherein the Respondent No. 4 vide Memo No. 7335 imposed punishment against the Petitioner in the light of departmental proceeding for reduction of pay of the Petitioner to minimum pay scale of his post and also quash the consequential order with regard to proportionate recovery of amount from the Petitioner as loss caused to the Government Exchequer (Annexure-7).*

*(ii) For direction upon the concerned Respondent to pay the Petitioner the amount which was deducted from his actual salary or deferential arrears of salary & other benefits which has not been paid to the Petitioner as he found guilty on the ground that the Petitioner made*

*countersigned over the alleged 4 fake invoices placed by the contractor before the Executive Engineer with regard to purchasing of Bitumen.*

*(iii) For quashing of entire departmental proceeding as the same is utter violation of Rule 55 of the Civil Services (Classification, control & Appeal) Rule, 1930 (Herein after called as C.C & A Rule 1930);*

*(iv) For grant of such other relief/reliefs for which the Petitioner would be entitled in the facts and circumstances of the present case.*

**5.** The brief facts of the case as per the pleading in W.P.(S) No. 4395 of 2025 are that petitioner served as an Assistant Engineer in the Rural Engineering Organisation, now the Rural Works Department, and retired from service in the year 2019. The controversy arises from the maintenance and repair of Bano P.W.D. Road to Pabura-Nimtur-Pangur Path, Km. 0 to 10, executed during 2004-05 through a contractor.

**6.** Pursuant to the order dated 30.06.2009 passed in W.P.(PIL) No. 803 of 2009, the Central Bureau of Investigation registered R.C. Case No. 17(A)/2009(R) on 16.09.2009 and submitted Charge-sheet No. 10 of 2010 dated 30.11.2010 against the contractor, the petitioner and the concerned Junior Engineer. On substantially the same factual foundation, a departmental proceeding was initiated under Rule 55 of the Civil Services (Classification, Control and Appeal) Rules, 1930 vide Memo No. 8918(S)WE dated 26.09.2013.

**7.** The departmental enquiry culminated in a report holding the charge proved. After a second show-cause notice and consideration of the petitioner's reply, the disciplinary

authority issued Memo No. 7434 dated 28.10.2015, reducing the petitioner to the minimum of the pay scale of his post and directing proportionate recovery of the alleged loss caused to the Government revenue.

**8.** The petitioner was also facing criminal trial and was convicted vide order dated 28.11.2019 against which he preferred an appeal and this Court in its appellate jurisdiction has acquitted the petitioner vide order dated 15.05.2024. Upon examining the evidence relating to the identical invoices and road work, this Court recorded that there was no material to show that the petitioner knew that the invoices were forged, and that prior to 2008 no duty was cast upon the engineers to verify the authenticity or source of the invoices, and that the allegation of conspiracy to facilitate clearance of the contractor's bills was not proved.

**9.** The petitioner thereafter submitted a fresh representation seeking withdrawal of the punishment and restoration of consequential benefits, but the same was rejected by Letter No. 26(S), giving rise to the present writ petition.

**Submissions on behalf of the Petitioner**

**10.** Ld. Sr. Counsel appearing on behalf of the petitioner submitted that the departmental enquiry is vitiated at its foundation because no departmental witness was examined to prove the charges; the disputed invoices, their alleged falsity,

the petitioner's knowledge, the alleged loss or the duties attached to the post of Assistant Engineer. The Inquiry officer treated the C.B.I. charge-sheet and investigation material as substantive evidence without having the documents proved through any competent witness and without affording an effective opportunity of cross-examination.

**11.** It was further submitted that Rule 55 contemplates a real and effective enquiry in which the department must first lead evidence in support of the charge. A First Information Report, charge-sheet, investigation report or collection of documents cannot prove itself. The finding of guilt, having been reached merely upon the allegations contained in the C.B.I. papers and upon the petitioner's reply, is a finding based on no evidence and is contrary to the law laid down in ***Roop Singh Negi v. Punjab National Bank, (2009) 2 SCC 570***, wherein the Hon'ble Supreme Court held that documents collected during investigation cannot be treated as evidence unless their contents are proved in the disciplinary enquiry.

**12.** Ld. Sr. Counsel further submitted that the applicable departmental instructions did not impose upon an Assistant Engineer the duty to authenticate the source or genuineness of the invoices. Government Memo Nos. 718 dated 21.03.2001 and 1680 dated 26.03.2002 placed the obligation to purchase packed bitumen from public-sector oil companies upon the

contractor. The Executive Engineer's letter dated 03.09.2005 and Letter No. 391 dated 31.03.2010 of the Chief Engineer demonstrate that the communication and verification mechanism concerning procurement was centered in the office of the Executive Engineer and that no separate pre-2008 direction required the Assistant Engineer to verify the source of the invoices.

**13.** It was argued that the petitioner's function was confined to technical supervision, physical verification of the material used and quality of construction. The road was found to be in good and motorable condition even years after completion, and the criminal appellate judgment also recorded that procurement did not compromise the quality of road construction. Therefore, the mere fact that the petitioner countersigned the invoices after physical verification could not, without proof of knowledge or a prescribed verification duty, establish misconduct or complicity.

**14.** Ld. Sr. Counsel also submitted that the criminal prosecution and the departmental charge are founded upon the same twelve invoices, the same agreement, the same contractor, the same alleged wrongful payment and the same allegation of conspiracy. The judgment dated 15.05.2024 specifically negates the essential elements of the departmental charge by holding that knowledge of forgery, a duty to verify

authenticity and conspiracy were not established. Consequently, the departmental conclusion cannot be sustained by merely invoking the different standards of proof applicable to criminal and disciplinary proceedings.

**15.** The direction for proportionate recovery was assailed independently. No technical witness, accounts witness or competent authority was examined to prove any deficiency in the executed work, to quantify the alleged loss, or to establish a causal connection between the petitioner's countersignature and the sum sought to be recovered. The contractual record further indicates that deductions for non-return of empty bitumen drums were to be made from the contractor's bills. A pecuniary recovery having serious civil consequences cannot be imposed upon the petitioner on an unproved or unquantified assumption.

**16.** Lastly, it was submitted that the present proceeding is founded upon a supervening cause of action. The earlier writ and review were decided long before the judgment of acquittal dated 15.05.2024. The L.P.A. was withdrawn after the said judgment with liberty, and the respondents thereafter passed a fresh order rejecting reconsideration. The present challenge is therefore directed not merely against the original punishment in isolation but also against its continued enforcement despite the subsequent judicial findings which

strike at the very substratum of the charge.

**17.** *Per contra*, learned counsel appearing on behalf of Respondent Nos. 2 and 4, relying upon the counter affidavit, submitted that the writ petition is devoid of merit and deserves to be dismissed. It was contended that the departmental proceeding originated from the investigation directed by this Court in W.P.(PIL) No. 803 of 2009 and from the C.B.I. charge-sheet alleging that the petitioner had countersigned twelve fake bitumen invoices bearing the same assignment number, thereby facilitating pecuniary advantage to the contractor and corresponding loss to the State.

**18.** The respondents submitted that the petitioner failed to ensure return of the requisite number of empty bitumen drums, which according to them indicated lesser utilization of bitumen and showed his involvement in the irregular execution of the work. Resolution No. 1680 dated 26.03.2002 required the contractor to procure packed bitumen from IOC/BPCL/HPCL, and the petitioner, despite being an Assistant Engineer, countersigned the invoices without verifying their truthfulness. The bills were thereafter prepared by the Junior Engineer on the basis of such invoices and illegal payment was made to the contractor.

**19.** It was further submitted that a regular departmental proceeding under Rule 55 was conducted by the Inquiry

officer, the charges were reported as proved, the enquiry report was supplied to the petitioner along with the second show-cause notice, and his reply was duly examined. Since the petitioner did not place any new fact sufficient to disprove the charges, the disciplinary authority-imposed reduction to the minimum pay of the pay scale and proportionate recovery of the Government loss. According to the respondents, the punishment is commensurate with the gravity of the proved misconduct and there was no violation of the principles of natural justice.

**20.** The respondents also relied upon the earlier dismissal of W.P.(S) No. 7453 of 2013 and submitted that criminal and departmental proceedings operate in distinct fields. Relying upon ***Capt. M. Paul Anthony v. Bharat Gold Mines Ltd., (1999) 3 SCC 679***, they contended that the standard of proof in a departmental proceeding is preponderance of probabilities, whereas the criminal charge must be proved beyond reasonable doubt. Therefore, an acquittal in a criminal case does not automatically obliterate a finding of misconduct recorded in a departmental enquiry.

**21.** Finally, the respondents contended that the Jharkhand Government Servants (Classification, Control and Appeal) Rules, 2016 contain no provision for reconsideration or revision of a punishment already imposed merely because the

employee has subsequently been acquitted in the criminal case. On that basis, the petitioner's fresh representation was rejected by Letter No. 26(S) dated 03.01.2025, and the respondents maintain that such rejection is lawful.

### **Findings**

**22.** Having heard learned counsel for the parties and upon consideration of the writ petition, counter affidavit and the documents on record, the principal controversy is whether the punishment can lawfully continue after the departmental finding was reached without proof of the foundational evidence and the criminal appellate court subsequently negated the essential ingredients of the identical allegation.

The following issues arise for consideration:

- i. Whether the departmental finding can be sustained when no witness was examined and the C.B.I. papers and disputed invoices were not proved in accordance with Rule 55?*
- ii. Whether the respondents can sustain the punishment merely by relying upon the different standards of proof after the criminal appellate judgment specifically found absence of duty, knowledge and conspiracy on the same factual foundation?*
- iii. Whether the reduction of pay and proportionate recovery are sustainable without proof and quantification of the loss individually attributable to the petitioner?*

**23.** In regard to the first issue, the counter affidavit states that the Inquiry officer conducted the proceeding and reported the charge as proved, but it does not answer the central allegation that no departmental witness was examined to prove the invoices, the C.B.I. documents, the alleged shortage, the petitioner's duty or the alleged loss. The mere existence of

a charge-sheet or an investigation report is not substantive proof. A departmental enquiry may not be governed by the strict technical rules of the Evidence Act, but it remains a quasi-judicial proceeding and its conclusion must rest upon some evidence having a rational nexus with the charge.

**24.** In ***Roop Singh Negi v. Punjab National Bank, (2009) 2 SCC 570***, the Hon'ble Supreme Court held that an inquiry officer performs a quasi-judicial function and that material collected during investigation does not become evidence merely because it is placed before the inquiry officer. The contents of the documents must be proved through witnesses, particularly where the charge depends upon disputed facts, knowledge and intention. Applying the said principle, the departmental finding against the petitioner is unsustainable because the central documents and allegations were never proved by any witness capable of being cross-examined. For ready reference the relevant paragraph is quoted herein below:

*“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.”*

**25.** 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 v. Punjab National Bank [(2009) 2 SCC 570]*** and further reiterated in the case of ***State of Uttar Pradesh v. Saroj Kumar Sinha [(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. Thereafter, again in the case of ***Satyendra Singh Vs. State of Uttar Pradesh and Another*** reported in **2024 SCC OnLine SC 3325** and ***Jai Prakash Saini v. Managing Director, U.P. Cooperative Federation Ltd.*** reported in **2026 SCC OnLine SC 505**, the Hon'ble Supreme Court has reiterated the importance of examining the oral witnesses to prove the documents.

**26.** The respondents rely upon the petitioner's countersignature as sufficient proof. However, the act of countersigning is admitted only as a technical endorsement following physical verification; the misconduct alleged by the department required proof that the petitioner was under a duty to authenticate the source of the invoices and knowingly facilitated a false claim. Neither component was proved in the enquiry. In the absence of a notified duty and evidence of knowledge, the conclusion of complicity is only an inference built upon another unproved inference.

**27.** The allegation regarding empty bitumen drums also

cannot cure the evidentiary defect. The pleadings indicate that the contractual mechanism contemplated recovery from the contractor for non-return of drums. The respondents have not shown that any technical measurement, stock verification or accounts evidence was produced before the Inquiry officer to prove lesser consumption of bitumen or to connect such alleged shortage with the petitioner. The road work itself was reported to be in good condition and no deficiency in quality was established.

**28.** In regards to the second issue the proposition that departmental and criminal proceedings are distinct is unexceptionable. Mere acquittal does not automatically invalidate every disciplinary action. The respondents are, however, not entitled to treat this general proposition as an absolute rule divorced from the facts. The Hon'ble Supreme Court in ***Ram Lal v. State of Rajasthan, 2023 SCC OnLine SC 1618***, held that where the charges, evidence and circumstances are identical and the criminal court, after full consideration of the prosecution evidence, finds that the charge has failed, the writ court may interfere if allowing the disciplinary finding to stand would be unjust, unfair and oppressive. Relevant paragraph is extracted hereinbelow:-

*“12. However, if the charges in the departmental enquiry and the criminal court are identical or similar, and if the evidence, witnesses and circumstances are one and the same, then the matter acquires a different dimension. If the Court in judicial*

*review concludes that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge, the Court in judicial review can grant redress in certain circumstances. The Court will be entitled to exercise its discretion and grant relief, if it concludes that allowing the findings in the disciplinary proceedings to stand will be unjust, unfair and oppressive. Each case will turn on its own facts. (See G.M. Tank v. State of Gujarat [G.M. Tank v. State of Gujarat, (2006) 5 SCC 446 : 2006 SCC (L&S) 1121] , State Bank of Hyderabad v. P. Kata Rao [State Bank of Hyderabad v. P. Kata Rao, (2008) 15 SCC 657 : (2009) 2 SCC (L&S) 489] and S. Samuthiram [State of T.N. v. S. Samuthiram, (2013) 1 SCC 598 : (2013) 1 SCC (Cri) 566 : (2013) 1 SCC (L&S) 229] .)”*

**29.** The present matter falls within the above exception. The criminal appeal concerned the very same invoices, the same contractor, the same work and the same allegation of conspiracy and wrongful payment. This Court, after examining the evidence, recorded that beyond countersigning the invoices there was no material to infer that the petitioner knew them to be forged; and further before 2008, no duty was cast upon the engineers to verify the authenticity and source of such invoices; and that conspiracy to facilitate clearance of the bills was not proved. These findings do not merely reflect a higher criminal standard of proof; rather they also negate the existence of the duty and knowledge which constitute the foundation of the departmental charge.

**30.** The respondents' reliance upon **Capt. M. Paul Anthony** (*supra*) is therefore incomplete. That decision recognizes the independence of the two jurisdictions, but it also recognizes the significance of an acquittal where both proceedings rest on the same factual and evidentiary foundation.

**31.** Further, in the present case, the departmental enquiry is not supported by independent evidence different from the criminal case. On the contrary, it rests upon the C.B.I. material which was neither independently proved in the enquiry; nor found sufficient to establish the petitioner's involvement in the criminal appeal.

**32.** The plea that the charges were framed under Rule 55, whereas the criminal case involved offences under the Penal Code and Prevention of Corruption Act; does not create a real factual distinction. The labels and legal consequences differ, but the factual imputation remains identical: knowing countersignature of forged invoices, facilitation of payment and conspiracy with the contractor. Once the appellate court found that knowledge, verification duty and conspiracy were not proved, the disciplinary authority could not mechanically continue the punishment without demonstrating any independent departmental evidence supporting misconduct.

**33.** In regard to the third issue, the order directing proportionate recovery is unsupported by a reasoned quantification. No evidence has been shown regarding the exact quantity of bitumen allegedly not used, the value thereof, the amount recoverable under the contract, the share of responsibility of each officer, or the causal connection between the petitioner's act and the alleged loss. Recovery

from salary and pensionary benefits cannot be founded upon a generalized allegation of loss, particularly when the contractor was the party responsible for procurement and the contractual deductions were recoverable from his bills.

**34.** The second show-cause process also does not validate an enquiry otherwise based on no evidence. A delinquent employee cannot be expected to disprove charges which the department has not first established through evidence. The disciplinary authority's observation that the petitioner failed to produce a new fact merely reverses the burden but does not amount to an independent consideration of the evidentiary deficiencies pointed out in his defence.

**35.** For the aforesaid reasons, the respondents' objections based on separate standards of proof and absence of a statutory review provision cannot sustain the impugned action. The departmental finding suffers from a basic no-evidence defect, while the subsequent criminal appellate judgment directly displaces the factual assumptions of duty, knowledge and conspiracy. Allowing the punishment and recovery to continue would therefore be arbitrary, unfair and oppressive.

### **Relief**

**36.** Accordingly, in W.P.(S) No. 4395 of 2025 the Memo No. 7434 dated 28.10.2015 and in W.P.(S) No. 4521 of 2025 the

Memo No. 7335 dated 23.10.2015 imposing reduction to the minimum of the pay scale and proportionate recovery, together with the enquiry report and the subsequent order contained in Letter No. 26(S) dated 03.01.2025 rejecting reconsideration, deserve to be, and, is hereby, quashed and set aside.

**37.** This Court holds that the petitioner is entitled for all consequential reliefs what has not been given to him due to the impugned order of punishment, which has been quashed in the preceding paragraphs.

**38.** Accordingly, the respondents are directed to verify the records of the case to quantify the consequential reliefs and pass necessary order and extend the same to the petitioner within a period of 12 weeks from the date of receipt of copy of this order.

**39.** Accordingly, both the writ petitions are allowed. Pending interlocutory application(s), if any, may also stand disposed of.

**(Deepak Roshan, J.)**

*Dated:14/08/2026*  
*Amardeep/*  
*A.F.R*

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