

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
(Letters Patent Appellate Jurisdiction)

**LPA No. 206 of 2014**

1. The State of Jhrkhand through the Director General of Police, Jharkhand, Ranchi, Officiating at Police Headquarters, HEC Township, PO & PS Dhurwa, District Ranchi;

... .. Respondent No.1/Appellant No.1

2. The Director General of Police, Jharkhand, Ranchi, Officiating at Police Headquarters, HEC Township, PO & PS Dhurwa, District Ranchi.

... .. Respondent No.2/Appellant No.2

**Versus**

1. Yamuna Ram, son of Ram Kishore Ram, resident of Mauwara, PO Bhujag, PS Mohania, District Kaimur (earlier Rohtas) (Bihar), present posted at Police Line, PO Hazaribag, PS Sadar, District Hazaribag;

... .. Petitioner/Respondent

2. The Deputy Inspector General of Police, PO, PS & District Hazaribag;

3. The Superintendent of Police, Hazaribag, PO, PS & District Hazaribag.

... .. Respondents/Proforma Respondents

(Through V.C.)

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**CORAM : HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR**  
**HON'BLE MR. JUSTICE RATNAKER BHENGRA**  
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For the Appellants : Mr. Ravi Kerketta, Advocate

For the Respondent : Mr. Pandey Neeraj Rai, Advocate

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**ORDER**

20<sup>th</sup> April 2022

Per, Shree Chandrashekhar, J.

The State of Jharkhand is in appeal against the order dated 23<sup>rd</sup> July 2013 passed in Civil Review No. 74 of 2012.

2. The writ petitioner who is the respondent No.1 before us was appointed on the post of constable on 15<sup>th</sup> July 1998. After about 17 years of service, he was served a charge memo on the allegation that he secured appointment on the basis of a forged caste certificate. A criminal case *vide* TR No.101 of 2006 was also instituted against him on a similar allegation which finally ended in his acquittal by judgment dated 29<sup>th</sup> April 2006. But before that, in the domestic inquiry a report was submitted on 31<sup>st</sup> January 2002 holding the charge proved against him and on that basis the disciplinary authority passed the order of dismissal from service on 10<sup>th</sup> October 2004. The appeal preferred by the respondent No.1 was dismissed by an order dated 5<sup>th</sup> August 2006. Since by that time the respondent No.1 was acquitted in criminal case, he approached the writ Court in WP(S) No. 5447 of 2006

which was allowed by an order dated 24<sup>th</sup> February 2012.

3. Before the writ Court, the respondent No.1 made a specific prayer for reinstatement after quashing the order of dismissal from service and payment of minimum 50% back wages.

4. The writ Court quashed the order of dismissal from service passed by the disciplinary authority as approved by the appellate authority and directed reinstatement of the respondent No.1 in service but without any back wages. The order passed in WP(S) No. 5447 of 2006 was not challenged by the State of Jharkhand, however, in the meantime the respondent No.1 filed Civil Review No. 74 of 2012 seeking review of the writ Court's order on the ground that the provisions of Fundamental Rule (FR) 54A(3) was not taken note of by the writ Court.

5. Before the review Court, the respondent No.1 placed reliance on the judgments in "*Nawal Kishore v. State of Jharkhand and others*" 2013 (1) JCR 495; "*Devendra Pratap Narain Rai Sharma v. State of Uttar Pradesh and others*" AIR 1962 SC 1334; and "*Arjun Chaubey v. Union of India and others*" (1984) 2 SCC 578 to submit that he was entitled for back wages on his reinstatement in service. On the other hand, the State of Jharkhand raised a question on maintainability of the review petition which however was rejected by the review Court on the ground that sufficient foundation has been laid in Ground Nos. B, C and E of the memorandum of review petition.

6. By an order dated 23<sup>rd</sup> July 2013, Civil Review No. 74 of 2012 was allowed in the following terms:

"10. ....

*The above referred two decisions have been considered by the Division Bench of this Court and the ratio laid down therein has been followed by the Division Bench of this Court and, therefore, in the light of the observations/directions given by the Division Bench of this Court, the petitioner shall also be entitled to back-wages alongwith other consequential benefits and accordingly, the respondent authorities are directed to pay the arrears of payment on the basis of last pay drawn by him. During the intervening period, if revision of pay has taken place the effect of revised pay scale shall also be paid to the petitioner.*

11. *In view of the above observations and directions, this review application stands allowed. "*

7. On a glance at the aforesaid order dated 23<sup>rd</sup> July 2013, we at once find that no finding has been recorded by the review Court how the Ground Nos. B, C and E would overcome the conditions under Order XLVII Rule 1 of the Code of Civil Procedure which are generally the parameters

adopted by the writ Court to review its own judgment. We further find that the review Court proceeded to allow civil review petition on the ground that in the light of the observations/ directions given by the Division Bench of this Court the respondent No.1 would be entitled for payment of arrears of salary/ full back wages along with other consequential benefits. The review Court further proceeded to direct the respondent authorities to pay arrears of salary on the basis of last pay drawn by the respondent No.1 with addition of revision of pay which it has taken effect in the intervening period.

8. The aforesaid directions issued by the review Court are beyond the prayers made in the writ petition inasmuch the specific prayer of the respondent No.1 made in WP(S) No. 5447 of 2006 was for payment of minimum 50% of back wages.

9. In view of the directions issued by the review Court which cannot be sustained in law, we are not inclined to address the arguments raised on behalf of the State of Jharkhand on maintainability of the review petition and would simply set-aside the order dated 23<sup>rd</sup> July 2013 passed in Civil Review No. 74 of 2012.

10. We further find that by an order dated 11<sup>th</sup> August 2015 passed in the present proceeding, the operation of the order passed by the review Court has been stayed by a coordinate Bench of this Court. Still, we would indicate that pursuant to the order dated 23<sup>rd</sup> July 2013 passed in Civil Review No. 74 of 2012 if any payment was made to the respondent No.1 no recovery shall be made from him.

11. LPA No. 206 of 2014 is allowed in the above terms.

**(Shree Chandrashekhar, J.)**

**(Ratnaker Bhengra, J.)**

Jharkhand High Court, Ranchi  
Dated: 20<sup>th</sup> April 2022  
SB/Nibha-NAFR