

## Samsudin Ansari Vs State of Jharkhand and Others

**Court:** Jharkhand High Court

**Date of Decision:** Feb. 26, 2008

**Citation:** (2008) 56 BLJR 1489 : (2008) 2 JCR 501

**Hon'ble Judges:** Amareshwar Sahay, J

**Bench:** Single Bench

**Advocate:** A.K. Das and C. Mukherjee, for the Appellant; P. Modi, GP-I, for the Respondent

**Final Decision:** Allowed

### Judgement

Amareshwar Sahay, J.

Heard the parties.

In this writ application, the petitioner has prayed for quashing of the order dated 18/04/2007, contained in Annexure-5 to the writ application,

whereby the petitions has been dismissed from service.

2. The facts in short and that the petitioner was departmentally proceeded for the charge that be being a Driver of Jeep allegedly threw keys of the

Car on the table of the Additional Collector, Dhanbad in June 2004 and refused to drive his vehicle.

3. In the departmental proceeding the Enquiry Officer held that the charges against the petitioner were proved and, thereafter, the Disciplinary

Authority passed the impugned order for dismissal of the petitioner from service. The said order of dismissal has been challenged by the petitioner

in this writ petition.

4. In course of argument, Mr. Das learned Counsel appearing for the petitioner, drew my attention to Annexure-3, i.e. the order sheet of the

conducting officer showing that he was directed to dismiss the petitioner from service. The extract of the order dated 05.10.2004/08.10.2004,

contained in Annexure -3, is quoted herein below for ready reference:

mik;qDr /kuckn ds vkns"K Kkikad 4148@jk0 fnukad 1-10-04 ds }kjk Jh IEIqn~nhu valkjH thi ekfyd jktLo "kk[kk /kuckn ds fo:) foHkkxh;

dk;Zokgh lapkyu gsrq v/kksgLrk{kjh dks lapkyu inkf/kdkjh fu;qDr fd;k x;k gS ,oa Jh valkjH dks ljdkjh Isok Is c[kkZLr gsrq funsZ"k izklr gS A

5. It is submitted that the whole departmental proceeding, initiated against the petitioner, was farce and was conducted in most illegal and arbitrary

manner. It was further submitted that though not a single witness was examined in the proceeding to prove the charges against the petitioner but the

Enquiry Officer considered a letter said to have been issued by the Additional Collector supporting the allegations made by him and the Enquiry

Officer without supplying a copy of the said letter to the petitioner and without giving him an opportunity to cross-examine the said witness, i.e. the

additional Collector, has wrongly and illegally held that the charges against the petitioner was found to be established only on the basis of the

aforesaid letter of the Additional Collector.

The aforesaid facts, which have been alleged by the petitioner, have not been controverted by the State in their counter affidavit.

6. Considering the facts and circumstances of the case as well as the submissions made by the parties, I find that the submission made by the

counsel for the petitioner appears to be correct because the order sheet of the conducting officer, contained in Annexure-3 as noticed above

clearly indicates that he was acting in a preconceived mind to punish the petitioner as per the direction of the Deputy Commissioner. I further find

that the Enquiry Officer could not have considered the letter of the Additional Collector said to have been written by him in support of his

allegation. The Additional Collector did not examine himself in the proceeding but only sent a letter to the Enquiry Officer and thereby the petitioner

was deprived of an opportunity to cross-examine the Additional Collector. Therefore, I hold that the enquiry conducted against the petitioner to be

not fair. There was violation of principles of natural justice also in conducting the said enquiry. In this view of the matter, the order impugned

contained in Annexure-5, which is based on such unfair enquiry cannot be sustained.

7. Accordingly, this writ petition is allowed. The order dated 18/04/2007, contained in Annexure-5 dismissing the petitioner from service is hereby

quashed and the matter is remitted back to the Enquiry Officer to conduct a fresh enquiry on the charges framed against the petitioner after giving

full opportunity to the petitioner to defend. The Enquiry Officer should complete the Enquiry as early as possible preferably within a period of six

months from the date of receipt/production of a copy of this order.