

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5624 of 2014

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Anil Kumar S/O Late Ramchandra Prasad R/O:- Chowk Bazar Kriparampur P.S.
Kotwali, District- Munger Retired Employee As Assistant (Clerk), Civil Court
Munger Petitioner

Versus

1. The State Of Bihar Through Law Secretariat, Patna
 2. The Registrar General, High Court Of Judicature At Patna
 3. The District And Session Judge, Munger, Civil Court Munger
 4. The Adhoc Additional District And Session Judge, 3rd Munger Cum Enquiry
Officer, Civil Court Munger
 5. The Registrar Cum Judge In-Charge Administration, Civil Court Munger
..... Respondents
- =====

Appearance :

For the Petitioner : Mr. Dinesh Kumar Gupta, Advocate
For respondents no. 2 to 5 : Mr. Bindhyachal Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 23-08-2018

Heard learned counsel for the petitioner and learned
counsel for respondents no. 2 to 5.

2. The short issue, which has been raised by learned
counsel for the petitioner is, whether after severance of master-
servant relationship on account of petitioner's retirement on
30.4.2010; and even after lapse of his period of re-employment on
15.8.2012, the departmental proceedings could have been initiated
against the petitioner by service of charge memo, admittedly on
1.5.2013.

3. Learned counsel appearing for respondents no. 2 to
5 submits that the decision to initiate the departmental proceedings
was taken during his period of re-employment, therefore, this Court



should not interfere with the decision.

4. Law regarding date of initiation of departmental proceeding is no longer *res integra* as has been held in case of **Union of India and others Vs. K.V.Jankiraman and others**, reported in (1991) 4 SCC 109. It is clear that the date of charge memo in the departmental proceeding is the date of initiation of proceeding against the delinquent. Fact that the charge memo was issued on 13.8.2012 served on the petitioner on 1.5.2013 has not been disputed or denied. Petitioner had already retired on 30.4.2010.

5. In view of the admitted facts as appearing from the records noted herein above, initiation of proceedings against the petitioner, who retired as Assistant in the Civil Court, Munger by charge memo dated 13.8.2012 issued under the signature of the District and Sessions Judge, Munger under Memo No.4896, by serving the same on 1.5.2013, was not maintainable since as on the said date the petitioner had already retired and no power was vested in the authorities to initiate departmental proceeding for awarding punishment, other than for the purposes of withdrawing of pension, or part thereof as contemplated under the Bihar Pension Rules as it ceased to have any disciplinary control over the employee. The charge memo dated 13.8.2012, is thus not sustainable in law and



departmental proceedings sought to be initiated are without jurisdiction and hereby quashed.

6. Considering the law laid down in the decision in the case of **State of Punjab Vs. Khemi Ram**, reported in (1969) 3 SCC 28, which has been relied upon by the petitioner, this Court would quash initiation of the departmental proceedings against the petitioner under charge memo dated 13.8.2012, after his retirement.

7. Learned counsel for respondents no.2 to 5 has prayed that it may be given liberty to proceed against the petitioner under the provisions of the Bihar Pension Rules.

8. Without expressing any opinion on the merits of the submissions of the respondents, this Court would only observe that the respondents may avail the liberty to the extent available to them in law.

9. The writ petition is allowed.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

