IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 13787 of 2015

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Hare Krishna Yadav Son of Late Jagdambi Yadav, Resident of Mohallah-Priyadarshi Nagar, D.P.S. More, P.S.- Rupaspur, Town & District- Patna (Bihar).

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Micro, Small & Medium Enterprises, Government of India, New Delhi.
2. Kadhi & Village Industries Commission, 3, Irla Road, Vile Parle (West), Mumbai- 400056 through its Chief Executive Officer.
3. The Deputy Chief Executive Officer (EZ)-cum-Appellate Authority of Khadi & Village Industries Commission, 33, Chittaranjan Avenue, Kolkata- 700012.
4. The Director (Administration), Khadi & Village Industries Commission, 3, Irla Road, Vile Parle (West), Mumbai- 400056.
5. The Chief Vigilance Officer, Khadi & Village Industries Commission, 3, Irla Road, Vile Parle (West), Mumbai- 400056.
6. The State Director, Khadi & Village Industries Commission, Bihar State Office, Sheikhpura, P.O.- B.V. College, Patna- 800014.
7. Smt. Birla Mahor, Enquiry Officer, Assistant Director (KC), Khadi & Village Industries Commission, 3, Irla Road, Vile Parle (West), Mumbai- 400056.

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr Akash Chaturvedi, Advocate
For the Respondent/s : Mr Dhanendra Chaubey, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 16-07-2018

Heard learned counsel for the petitioner and the respondent-Commission.

2 Submission is made by the learned counsel for the petitioner that since the provisions of Regulation 3 ((1) (i) (ii) (iii) of the KVIC Regulations, 2003 came into existence much subsequent to the alleged occurrence, which is for the period between 1996 to 1998, he could not have been punished for violation of the said KVIC

Regulations, 2003. the provisions are being reproduced herein for the sake of reference:

> "**3. General.-**
>
> **(1) Every employee shall at all times-**
>
> (i) maintain absolute integrity;
> (ii) maintain devotion to duty; and
> (iii) do nothing which is unbecoming of an employee."

3 The said provisions are general provisions and only mandate that the employees have to maintain integrity, devotion to duty and not do anything which is unbecoming of an employee. The said requirements in public employment is implicit in any Rule, even if not specified. Even because of the fact that the same has been specified in the year 2003, the petitioner cannot escape the said requirement if he is in public employment.

4 In view of the aforesaid findings, the petitioner's reliance on the judgment of the Apex Court in the case of *Zile Singh –Versus- State of Haryana and Others (2004) 8 Supreme Court Cases 1* appears to be thoroughly misplaced. This Court would only refer to paragraph 14 of the said judgment which is being reproduced herein:

> *"**14.** The presumption against retrospective operation is not applicable to declaratory statutes... In determining, therefore, the nature of the Act, regard must be had to the substance rather than to the form. If a new Act is "to explain" an earlier Act, it would be without object unless construed retrospectively. An explanatory Act is generally passed to supply an*

obvious omission or to clear up doubts as to the meaning of the previous Act. It is well settled that if a statute is curative or merely declaratory of the previous law retrospective operation is generally intended... An amending Act may be purely declaratory to clear a meaning of a provision of the principal Act which was already implicit. A clarificatory amendment of this nature will have retrospective effect."

5 Even the Apex Court in the said judgment was of the same opinion that an amending Act may be purely declaratory to clear a meaning of a provision of the principal Act which was already implicit and that such clarificatory amendment will have retrospective effect.

6 Since, this Court is not persuaded by the submission made by the learned counsel for the petitioner, the writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	AFR
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