IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4271 of 2012

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Chauhan Baldeo Rodu Singh @ C.R.B. Singh S/O Rodu Singh R/O Village-Kalamba Bodakhe, P.S.- Asegaon, District- Washim Maharashtra

... ... Petitioner/s

Versus

1. The Union of India through the Ministry of Home Affairs, New Delhi.
2. The D.G. Of Police, C.I.S.F., C.I.S.F. Directorate, C.G.O. Complex, Lodi Road, New Delhi.
3. The I.G., C.I.S.F., Eastern Sector, Boring Road, Patna.
4. The D.I.G., C.I.S.F., C.I.S.F. Unit Bhakokoli, Dhanbad.
5. The Commandant, C.I.S.F., C.I.S.F. Unit Bhakokoli, Dhanbad.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ebrahim Kabir, Adv. Mr. Shruti Sinha, Adv.
For the Respondent/s	:	Mr. Anshuman Singh, CGC

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date : 21-06-2019

Heard learned counsel for the parties.

In the present case, the petitioner has prayed for following relief:-

"1. That this is an application for issuance of an appropriate writ order or direction for quashing the order No. Vi 15014/C.I.S.F./Bhakokoli/Anu/ CBRS/2011/2994 dt. 9.05.11 issued by the Commandant C.I.S.F. Unit Bhakokoli Dhanbad contained in Annexure-2 whereby the petitioner who was a constable in C.I.S.F. lastly posted at C.I.S.F. Unit Bhokokoli Dhanbad has been removed from servicee and for a further direction for quashing order passed in his appeal by the D.I.G. C.I.S.F. Unit Bhakokoli Dhanbad

rejecting the same contained in order No. V-15014/C.I.S.F./Bhakokoli/Anu/CBRS/2011 8085 dt. 25.6.011 i.e. Annexure-4 and for a furthter direction for quashing the order passed by the I.G., C.I.S.F. Eastern Sector Boring Road Patna in revision application filed by the petitioner contained in order No.- V-11015/Pukh/Vivani/Rivi-22/2011 8956 dt. 24.8.011 i.e. Annexure-5 whereby the same has been rejected and for a further direction for quashing the order from Directorate conveyed through letter contained in letter No. S.V-11014/02 Vivani/2011-3218 dt. 4.10.011 issued by Assistant Inspector General (Vivani) on the appeal/representation preferred by the petitioner before the D.G., C.I.S.F. New Delhi, saying that as the appeal and revision filed by the petitioner has been rejected so no second revision/appeal is maintainable on the same subject order contained in Annexure-6 and for a further direction to the respondents to reinstate the petitioner in service with all consequential benefits or for any other order or orders which this Hon'ble Court may deem fit and proper under the circumstances of the case."

The petitioner was member of the C.I.S.F. Unit and his last posting was at Dhanbad where a charge-sheet was served upon him. In nutshell, the charge is that while posted at Bhopal Airport, he has taken loan of Rs. 2,36,000/- from one Darshana Devi, colleague Constable and did not return the same to her. While posted there, he had also taken loan from T.D. Singh a sum of Rs. 35,000/- but, he has not returned the same. Again he had taken loan of Rs. 35,000/- from V.J. Bhai and did not return the same. Inasmuch as, he has also taken loan from Sri Satya Prakash Bhadoriya who is a civilian and had taken loan of Rs. 65,000/-. It has further been stated in the charge-sheet that earlier on five occasions, the petitioner was found involved in misdemeanor and, accordingly, punishment was inflicted upon him. The enquiry was initiated and it appears that the prosecution has examined the witnesses from whom the money was taken and also examined the documents which were marked as exhibits and, on perusal of the enquiry report, which the petitioner has not denied of taking money from those aforesaid persons, and always assurance was given to return the same. In the matter of Darshana Devi, certain amount was paid and for rest of the amount, the cheque was handed over by way of making payment of the outstanding dues against him but, those cheques were returned bounced on account of insufficient money. When Darshana Devi has insisted for payment, the petitioner has said that he was going to sell the land and would make payment but, all failed. When the money was not given, Darshana Devi had approached to the Commandant and, in turn, the Commandant had approached to the Commandant of Goa and tried to get back the money but, ultimately, failed. Satya Prakash Bhadoriya and Smt. Shashi Bhadoriya have given a description of the incident about return of the money of Rs. 65,000/- which the petitioner failed to return the same whereupon both the wife and husband had approached to the Commandant then, at 11 O'clock in the night, the petitioner entered into the house with knife and started to threaten to kill them whereupon they started crying and, on the threat of life, obtained the signature of two persons. K.G. Bhai has also stated that the petitioner has taken money of Rs. 65,000/- and always has given assurance to return the same. It has further been said that when he was deputed in connection with election duty, apart from loan amount, extra money was paid by K.G. Bhai, was given assurance that the money would be returned. He requested for return of the money but, failed, later on, the petitioner threatened Sri K.G. Bhai that if he continued to insist for making payment, he would commit suicide leaving a note against him, in consequence, he will become an accused in the criminal case. The petitioner appeared and made statement before the Enquiry Officer that all the five persons were running the chit-fund and, on that account, the money was given but, it could not run properly, that led to cause a dues against the petitioner but, the Enquiry Officer did not find any material evidence showing worthiness in the story to be correct and all the charges leveled against the petitioner were found to be proved. The Appointing authority served enquiry report and, after consideration, did not find any merit in reply and, looking to his past services record, inflicted punishment of removal from service. He tried hard to succeed in appeal and revision but failed and ultimately approached this Court in the present case.

At the initial stage, this Court was agreeable to the submission of the petitioner that for the private loan, the petitioner cannot be proceeded but, the regulation of the CCS Conduct Rule 16 (4)(i) stipulates inhibition of loan even from private person, the same reads as follows:-

> *"16 (4) (i) No Government servant shall, save in the ordinary course of business with a bank or a public limited company, either himself or through any member of his family or any other person acting on his behalf, -*
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> *(a) lend or borrow or deposit money, as a principal or an agent, to, or from or with, any person or firm or private limited company within the local limits of his authority or with whom he is likely to have official dealings or otherwise place himself under any pecuniary obligation to such person or firm or private limited company; or*
>
> *(b) lend money to any person at interest or in a manner whereby return in money or in kind is charged or paid:*
>
> *Provided that a Government servant may give to, or accept from, a relative or a personal friend a purely temporary loan of a small amount free of interest, or operate credit account with a*

bona fide tradesman or make an advance of pay to his private employee:

Provided further that nothing in this sub-rule shall apply in respect of any transaction entered into by a Government servant with the previous sanction of the Government.

(ii) When a Government servant is appointed or transferred to a post of such nature as would involve him in the breach of any of the provisions of sub-rule (2) or sub-rule (4), he shall forthwith report the circumstances to the prescribed authority and shall thereafter act in accordance with such order as may be made by such authority."

On perusal of Rule 16(4), it appears that an employee of the Central Government is not entitled to take loan even from the private person save and except from the financial institution as Bank and public limited company but, the proviso gives liberty the government servant may give or take money from the relative or from personal friend and purely a temporary loan of small amount free of interest or operate credit account with a bonafide tradesman or make an advance of pay to his private employee. The proviso has given only liberty that he can take money as loan of small amount from the personal friend or relative on temporary basis but, in the present case, the petitioner has taken huge amount of loan from his several colleagues including civilian with an assurance to return the same but, he failed to return, they in turn approached him from time to time to for return, he had always given an assurance of return, handed over the cheque which returned bounced and even threatened them, even blackmailed them in the sense of committing suicide and then they would be trapped in a criminal case. In the case of Bhadoria, allegation has been made that he has entered into the house in the night, started threatening of killing the entire family and obtained signature on the stamp paper shows his act of highhandedness.

Learned counsel for the petitioner submits that it was a private transaction and has noting to do with the service condition and the Department is not a guardian for settling the private dispute in connection with the private loan taken by him and he has further submitted that he has never denied he would not return the amount. When the Court has asked a question as to whether the money has been returned, he replied that the money has not been returned and still the petitioner owes to return the same though he has tried to give an impression to this Court that it is covered by the proviso of Section 16(4) but 16(4) relates to two conditions, first is that he would take money from his friend and relative, that too, of a small amount with a condition to return the same, it is not so that he will take huge money, time to time assuring return and, later on, threatening for serious consequences. The Conduct Rule itself prohibits of such transaction subject to small amount from the friends and relative but, they are not relative rather they are colleagues and the size of the loan amount was very huge.

This Court is of the view, had there been a one single instance of small money, the matter would have been otherwise but, Darshan Devi, who had given loan huge amount arranging money by taking loan from her husband and the family members. Even the money kept for the marriage of her daughter was handed over to the petitioner and, all the time, he assured and shown document that he was going to sell the property and, later on, the money would be liquidated but, this occasion never materialized and they are still deprived of their money which they have given to the petitioner by way of loan.

In terms of Rule 16(4), the area of judicial review is very much limited as the petitioner has neither challenged the procedural part of the enquiry proceeding nor the fact which has been brought by the prosecution by way of documentary as well as oral evidence which also suggests that the petitioner was in the habit of taking loan from different colleagues in the name of constructing his house and consumed the same without showing tendency to return the same though assurance has always been given.

In view of the judgment in the case of Union of India & Ors. Vs. Gunasekaran reported in 2015 (2) SCC 610, in the case of Central Industrial Security Force & Ors. Vs. Abrar Ali reported in

(2017) 4 SCC 507 and in the case of S. Sreesanth Vs. BCCI reported in (2019) 4 SCC 660, this Court does not find that this Court should interfere with the order of punishment which has been affirmed up to the stage of revision.

Accordingly, this writ application stands dismissed having no merit.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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