

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16782 of 2015

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Ashok Kumar S/O Late Shyam Narayan Singh, Resident of village- Gyatri
Nagar, Kurthaul, P.S.- Parsa Bazar, District- Patna, Bihar

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, General Administration Department, Govt. of Bihar, Patna
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna
3. The Joint Secretary, General Administration Department, Government of Bihar, Patna
4. The Dy. Secretary, General Administration Department, Government of Bihar, Patna
5. The Under Secretary, General Administration Department, Government of Bihar, Patna
6. The Treasury Officer, Secretariat Treasury, Government of Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Yashraj Bardhan, Advocate
For the Respondent/s : Mr.Amit Bhushan, A.C. to G.P.-17

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 12-12-2023

Heard Mr. Yashraj Bardhan, learned counsel appearing
for the petitioner and Mr. Amit Bhushan, learned A.C. to G.P.-17
appearing for the State.

2. The present writ application has been filed for
quashing the order of punishment vide Memo No.11611 dated
12/07/2013 issued by the respondent No.3 and Memo No. 400, dt.
18/09/2013 issued by the Additional Secretary to Government,
General Administration Department, Government of Bihar, Patna
wherein the petitioner has been awarded punishment to the charges



and he has been demoted to original pay (three stages below) and paying only 80% of the reduced pay for the suspension period and recovery of Rs. 1, 80, 000/- as a charging valuation of the vehicle in question from his salary and retirement benefits.

3. The petitioner was appointed on the post of Driver w.e.f.13.03.1981 in the General Administration Department, Government of Bihar, Patna. When the petitioner was posted as a Driver on 19.07.2011 after leaving the Joint Secretary at his residence at Kankarbagh, he took the vehicle himself to his residence at Kurthaul, Parsa Bazar, Patna as he was earlier called at 8.00 'O' Clock in the morning and on the next day 20.07.2011 when the petitioner was woke up at 3.00 'O' Clock in the morning he did not find the vehicle at the parked place and he could inform to nearest police station in the morning as he has also given this information to the Principal Secretary of the Department on 20.07.2011 and also filed an FIR.

4. The petitioner was asked a show cause vide Memo No.8275 dated 21.07.2011 issued by the Joint Secretary and petitioner was directed to submit his explanation within 24 hours. Pursuant to the aforesaid show cause, the petitioner had submitted his explanation before the Joint Secretary, Incharge of Establishment, General Administration Department, Government



of Bihar, Patna on 22.07.2011 with explanation that he had taken the vehicle in question to his residence in good faith due to the reason that he was asked to come earlier next morning. The Department has refused to accept the explanation of the petitioner and issued a letter contained in Memo No.9388 dated 19.08.2011 with a copy of chargesheet in Prapatra 'Ka' and asking the explanation the petitioner to submit by 30.08.2011 before the concerned authority and during pendency of the aforesaid proceeding, the Motor Vehicle Inspector, Patna had determined the value of the stolen vehicle to be Rs. 1,80,000/- and the petitioner participated in the enquiry and the Inquiry Officer submitted his report to the Disciplinary Authority who issued notice to the petitioner and after notice under Rule 11(5) of Bihar Government Servant (CCA) Rules, 2005, a final order was passed on 18.09.2023 by the Additional Secretary, General Administration Department, Govt. of Bihar, Patna awarding the punishment and giving 80% salary of the suspension period apart from deduction of Rs. 15,000/- per month from the suspension period and rest Rs. 1,05,000/- from leave encashment of the valuation of the stolen vehicle.

5. Learned counsel for the petitioner submits that the petitioner has been made a victim of double jeo pardy on being



demoted to original pay and paying only 80% salary of the suspension period and apart from that Rs. 1,80,000/- has been deducted from his salary and leave encashment and he has been awarded severest punishment of reduction of salary to the original pay and at the same time the recovery of the valuation of the stolen vehicle has also been made from his salary and retirement benefit.

6. Learned counsel for the State submits that the order was passed in the proceeding in the year 2013 (12.07.2013) and thereafter the petitioner has retired on 31.01.2014 and till the date of retirement he has not challenged the order of punishment and he has challenged the order of punishment after his retirement and filed the present writ application in October, 2015 and it appears that the petitioner deliberately and willfully carried the Govt. vehicle to his residence at village Kurthaul, Patna which is not permissible under the Establishment Rules and Norms. The Government vehicles cannot be used for personal purpose and the vehicle in question should have been parked in the Secretariat Premises. But the petitioner used the vehicle for the personal use and carried to village Kurthaul, Patna without informing the concerned authority and the petitioner did not inform the authority about the theft of vehicle in question which show that the petitioner has deliberate and willfull dereliction of duty and



negligence on the part of the petitioner. In the Govt. Establishment/Service willful dereliction of duty and negligence is a major charge for the Govt. employee. The petitioner was put under suspension and the departmental proceeding was initiated against the petitioner and the petitioner has submitted his explanation on 30.08.2011 and after careful examination of charges levelled against the petitioner and explanation filed by him it was found that the charges are grave in nature and it was relating to dereliction/negligence to his assigned duty and after completion of enquiry, the Inquiry Conducting Officer submitted his report in which the charges against the petitioner was found proved. The matter was further examined again by keeping in view the enquiry report and evidences adduced with it and it was established that without due approval of the competent authority the petitioner was carried away the Govt. vehicle to his residence at place Kurthaul and due to negligence of petitioner, the Govt. was stolen and lost and thereafter follow the due process and given ample opportunity to the petitioner, the order impugned is passed.

7. In view of the aforesaid it appears that the proceeding was initiated against the petitioner and there is no laches in the proceeding and after giving ample opportunity to the petitioner, the present impugned order has been passed in the proceeding and



the petitioner has not challenged before his retirement and after his retirement he has challenged the same, hence there is no infirmity in the impugned order.

8. There is no merit in this writ application. Accordingly, it is dismissed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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