

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23519 of 2011

=====

Ranvijay Kumar Sinha S/O Late Lakshaman Singh Resident Of New Area
Jakkanpur, P.S. Jakkanpur, District Patna.

... .. Petitioner/s

Versus

1. The Bihar State Road Transport Corporation through its Administrator,
Bihar State Road Transport Corporation, Pariwahan Bhawan, Birchand Patel
Marg, Patna.
2. The Administrator, Bihar State Road Transport Corporation, Pariwahan
Bhawan, Birchand Patel Marg, Patna.
3. The Divisional Manager, Bhagalpur Division, Bihar State Road Transport
Corporation, Bhagalpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Jai Prakash Verma, Advocate
For the Respondent/s	:	Mr. Prabhat Kumar Verma, Sr. Advocate
		Mr. Dr. Mankeshwar Tiwari, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 28-11-2023

Heard Mr. Jai Prakash Verma, learned counsel for the
petitioner, Mr. P.K. Verma, learned senior Advocate assisted by
Dr. Mankeshwar Tiwari, learned AC to P.K. Verma for the Bihar
State Transport Corporation.

2. The present writ petition has been filed for quashing
the order contained in Memo No. 1022 dated 22.02.2011
whereunder the representation of the petitioner has been
disposed of in light of the order dated 29.04.2010 passed in
CWJC No. 894 of 1996 by which the punishment order dated
31.07.1993 has been modified to the extent that the period of



suspension shall be counted for the purpose of gratuity but left other punishment dated 31.07.1993 intact.

3. The petitioner was superannuated from his services on 31.05.2008 while posted as Traffic clerk in at Bankipur Depot, Patna Division, Patna. At the relevant time the petitioner was posted at Mahatma Gandhi Setu (Ganga Bridge) Patna in Accounts Section for collecting toll. On 25.02.1989 the services of the petitioner was transferred from Mahatma Gandhi Setu to Bhagalpur Division on the post of Traffic/ Passenger Clerk vide office order No. 454 dated 25.02.1989. The petitioner went on leave on 08.03.1989 and remained on leave up to 27.08.1989.

4. In the meantime, vide order no. 1398 dated 18.07.1989 the petitioner was put under suspension on the ground that the petitioner was transferred from Mahatma Gandhi Setu Headquarter to Bhagalpur Division by order dated 25.02.1989 and had been relieved for joining there by order dated 14.03.1989 but he did not carry out the same. The order dated 18.07.1989. The said order of suspension also specified that the petitioner will be paid his subsistence allowance only after his joining at Bhagalpur.

5. The corporation by its order as contained in Memo No. 9659 dated 25.07.1989 issued charge sheet against the



petitioner wherein three charges were levelled against him. Charge sheet called for explanation from the petitioner within 15 days from the receipt of the letter and submitted the same to the enquiry officer through the Divisional Manager, Bhagalpur. The departmental enquiry against the petitioner commenced in which witnesses were examined and cross examined. The petitioner participated in the enquiry and he has submitted his written argument also in the departmental enquiry.

6. By office order no. 849 dated 28.08.1990, the officer on special duty released the present petitioner from suspension provisionally. On 31.07.1993 the Managing Director of the Corporation has passed the order inflicting the punishment of withholding of two increments with cumulative effect, no payment of any amount except the subsistence allowance for the period of suspension, treating the period he remained on leave as leave without salary and non-counting of period of suspension etc. for the purpose of fixation of salary and gratuity etc.

7. The petitioner has preferred an appeal against the order dated 31.07.1993 and he has filed an appeal on 10.12.1993 before the Chairman of the Corporation and on 05.12.1995 the Chairman disposed of the appeal and he has modified the



punishment to the effect that instead of withholding two increments with cumulative effect it will be simply stopping of two increments and upheld other punishment inflicted by the Managing Director of the Corporation.

8. The petitioner has challenged both the orders i.e. order dated 31.07.1993 and 05.12.1995 in CWJC No. 894 of 1996 for quashing of aforesaid orders. The hon'ble Court after hearing the parties has been pleased to set aside the order dated 05.12.1995 and the matter was remitted back to the disciplinary authority to take a fresh decision in the matter after giving opportunity to the petitioner taking into account the evidence on record, as early as possible, in any case within three months from the date of receipt/production of a copy of order before the Administrator of the Corporation.

9. Thereafter, the petitioner had filed a detailed representation pursuant to the said notice dated 11.12.2010 before the Managing Director on 03.01.2011 with a prayer to consider the writ petition and to exonerate him from the punishment order dated 31.07.1993 and pay him consequential benefits for the same. And the administrator had passed an order without giving any opportunity of hearing to the petitioner and passed the order dated 22.02.2011 which is impugned in the



present writ petition.

10. Learned counsel for the petitioner further submits that the present impugned order has been passed without giving any opportunity of hearing to the petitioner, so present impugned order is bad in law and in violation of Constitution of India.

11. Learned senior advocate appearing on behalf of the Corporation submits that in compliance of the order passed in the Hon'ble Court in CWJC No. 894 of 1996, opportunity of hearing was given vide notice is under Memo No. 7672 dated 11.12.2010. The notice was received by the petitioner and the petitioner has submitted his explanation dated 03.01.2011 before the disciplinary authority and the matter was considered by the disciplinary authority who after considering the explanation and the documents brought on the record the petitioner was remained unauthorized absent from his duty. And it was concluded that the petitioner was remained absent without leave being allowed or accepted for long period continuously unauthorized absent which was admitted by the petitioner. The reason of his unauthorized absence was illness of his father and the Corporation has taken a sympathetic approach has already modified and penalty reduce in appeal and the disciplinary



authority after due consideration given opportunity kept intact the penalty so earlier imposed of (I) Steppes of two increments with non cumulative effect (II) the period of an unauthorized absence shall be treated as leave without pay (III) the period of suspension from 08.07.1989 to 28.08.1990 shall not be counted for increment but will be counted for gratuity.

12. In view of the aforesaid, it appears that the respondents after following the due procedure in the proceeding and given the ample of opportunity to the petitioner inflict the penalty and the penalty imposed upon the petitioner has already effected and the petitioner had paid all his retrial dues without any reduction and the penalty is based upon the admitted facts that the petitioner was remained unauthorized absent from the period in question.

13. Accordingly, there is no merit in the writ petition and the same is dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.12.2023.
Transmission Date	N/A

