

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7135 of 2012

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AJAY KUMAR MANDAL S/O Sri Basistha Mandal R/O Moh-West Patel
Nagar, P.S.-Shastri Nagar, Distt-Patna

... .. Petitioner/s

Versus

1. The Bihar State Electricity Board, through its Chairman Vidyut Bhawan, Bailey Road, Patna
2. The Secretary, Bihar State Electricity Board Vidyut Bhawan, Bailey Road, Patna
3. The Technical Secretary to The Chairman/ Enquiry Officer, Bihar State Electricity Board Vidyut Bhawan, Bailey Road, Patna
4. The Joint Secretary, General Administration Department, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna
5. The Administrative Officer, Bihar State Electricity Board Vidyut Bhawan, Bailey Road, Patna
6. The Dy.Director, Personnel Bihar State Electricity Board Vidyut Bhawan, Bailey Road, Patna
7. The Electrical Executive Engineer, (Telecommunication) Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar, Advocate
For the Respondent/s	:	Mr.Vinay Kirti Singh, Sr.Advocate
	:	Mr. Akhileshwar Singh, Advocate
	:	Mr.Venkatesh Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 08-02-2024

Heard Mr. Ashok Kumar Singh, learned counsel for the petitioner and Mr. Mr.Vinay Kirti Singh, learned senior counsel for the Bihar State Electricity Board.

The present writ application has been filed for the following reliefs:

(i) To issue a writ in the nature of Certiorari, for quashing the office order no. 13/DP/811/99/476 dated 20.1.2000



(Annexure-13) issued under the signature of respondent no.4 by which services of the petitioner was dispersed with, on account of interpolation in the service book and further also for quashing the order passed in Appeal preferred by the petitioner against the order of Punishment of dismissal from Service dt. 09.06.2000 communicated through Memo No. 17/DP/811/99-839 dated 23.6.2000 by the respondent no.4(Annexure-16).

(ii) For quashing the offer contained in letter no. 688 dt. 09.09.09 by which the representation filed in Compliance of order passed by this Hon'ble Court in C.W.J.C.No. 5184/01 to reconsider the representation on point of quantum of punishment has been disposed without making any modification in order of dismissal from Service (Annexure-19) and further also for quashing the order Contained in letter no.12 D1/811/99/ 1088 dt. 14-12-11 by which on the representation filed the petitioner to reconsider the order of punishment after being acquitted by Trial court in Criminal case lodged for the same offence it has been decided to keep hold the punishment of dismissal (Annexure-22).

(iii) To Issue a writ in the nature of mandamus for giving a direction to reinstate the petitioner with all consequential benefits.



(iv) To declare the order impugned dated 14.12.11 (Annexure- 22) and order do. 9.9.2009 (Annexur-19)are illegal, arbitrary, capricious, and without Jurisdiction because petitioner has been acquitted from the charges by the learned Trial court in Criminal Proceeding which was found proved during departmental proceeding.

3. The petitioner was engaged as daily rated basis in telecommunication Sub Division and pursuant to the Office order dated 01.05.1977 bearing No. 2165 of the Board, the persons similar to the petitioner were appointed under regular establishment. Pursuant to the aforesaid decision of the Board, the respondent No.7 had issued an office order dated 06.08.1977 bearing No.101 by which the petitioner was appointed as temporary unskilled Khalasi and the name of the petitioner was figured at Sl. No.6 in the office order dated 06.08.1977. A show cause notice was served upon the petitioner on 30.01.1996 issued by the respondent No.2 asking therein that the service book of the petitioner was opened in the year 1981 but it appears that the petitioner has put his signature on 08.07.1978 over which there was cutting. It was also mentioned in the show cause notice that in the medical certificates, name of the petitioner has been mentioned Jay Kumar which was later on interpolated as



Ajay Kumar Mandal. In compliance of the letter dated 30.01.1996 petitioner had filed a detailed reply to the show cause and controverted each and every allegation levelled against him and he has filed the same on 06.02.1996 before the respondent No.2.

4. The respondent No.6 issued an office order dated 17.04.1996 by which the Board has initiated a departmental proceeding against the petitioner under Rule 29 (b)(q) of the standing order of the Board.

5. Learned counsel for the petitioner submits that the respondent No.6 has directed the petitioner to appear before the respondent No.6 on 23.01.1996 vide letter dated 22.01.1996, in compliance of the aforesaid letter, the petitioner had appeared on 23.01.1996 before the respondent No.6 and the petitioner has asked to put his signature. The respondent No.3, who is Inquiry officer, submitted his report on 29.10.1997.

6. Learned counsel for the petitioner submits that from a bare perusal of the office order No.2089 dated 17.04.1997 (Annexure-6) there were altogether four charges were levelled against the petitioner but out of four charges, Inquiry Officer exonerated the petitioner from charge Nos.1,2 and 3 but the Inquiry Office has found guilty to the petitioner against charge No.4 and after submission of the inquiry report, a second show



cause notice was served upon the petitioner and petitioner has accordingly replied to the second show cause notice but the other respondents have not considered the contention of the petitioner and respondent No.4 has issued an office order dated 20.01.2000 by which the petitioner was dismissed from service. Learned counsel for the petitioner submits that the petitioner has challenged the dismissal order dated 20.01.2000 in an appeal before the respondent No.2 on 24.01.2000. The appeal of the petitioner was heard by the respondent No.2 and respondent No.2 has been pleased to reject the appeal of the petitioner on 09.06.2000.

7. Learned counsel for the petitioner submits that the petitioner has filed CWJC No.5184 of 2001 challenging the order of dismissal (Annexure-13) and the appellate order in (Annexure-16) the same was heard and disposed of by order dated 04.05.2009 that *“the writ application is disposed of with the observation that if the petitioner prefers an application before the authorities on the issue of quantum of punishment only, the authorities are expected to consider the same appropriately in law, without being prejudiced by the fact that this Court declined to interfere in the writ application on merits”*.

8. In compliance of the aforesaid order, the petitioner had submitted his representation for reconsideration on point of



quantum of punishment on 19.05.2009 and the same was disposed of on 08.09.2009. The respondent had taken decision not to make interference in the punishment of dismissal from service and the same was communicated to the petitioner vide letter No.688 dated 09.09.2009. Learned counsel for the petitioner submits that from the alleged charges which was found proved during departmental proceeding, a criminal case was also lodged vide Kotwali P.S.Case No. 126 of 2002 for the offence under Sections 420,466,467,468,471,474,218 and 120B of IPC and after trial, the petitioner has been acquitted from all the charges vide order and judgment passed in S.Tr.No.364 of 2011 order dated 27.01.2011. Learned counsel for the petitioner submits that after acquittal in the criminal proceeding the petitioner had again made an application before the respondent authority to withdraw the punishment order on the ground that the alleged charges have not been proved during departmental proceeding. Alleged ground that the charge has been proved during departmental proceeding but the same has not been proved during criminal proceeding. Learned counsel for the petitioner submits that the respondents have examined the representation of the petitioner and it was decided not to make interference in the order of punishment of dismissal



from service and the same was communicated through letter No. 1088 dated 14.12.2011 to the petitioner.

9. Learned counsel for the Board submits that there is no laches on the part of the departmental proceeding and there is compliance of each and every aspect and there is following the principles of natural justice and no laches on the part of the respondents in conducting the departmental proceeding, the departmental proceeding was initiated on four charges which are as follows:-

“I. Appointment letter issued in the name of Ajay Kumar Mandal. The petitioner received the letter by signature in the receipt book as Jay Kumor Mandal initially. Later “A” was added to "Jay" and made it to “Ajay” but again made “Jay” by overwriting.

II. The medical certificate issued by the Civil Assistant Surgeon in the name of Jay Kumar Mandal but it was also manipulated to Ajay Kumar Mandal.

III. The signature in the first page of service back made as Jay Kumar Mandal which manipulated as Ajay Kumar Mandal by adding letter "A".

IV. The school leaving certificate issued on 13-9-1979 by Sri Dwarika High School, Mandiri, Patna in the name of Jay



Kumar Mandal made it by different ink as Ajay Kumar Mandal on 14-9-1979 by overwriting on that basis on 27-10-1983. The previous date of birth 08.01.1954 was made on 02-06-1958 by cutting with an intention to defraud the Board”.

10. After careful examination of all the facts, findings and the concerned documents, and after giving due opportunity to the petitioner to defend his case and careful examination of the documents the respondent-Board has decided to dismiss the petitioner and thereafter the appeal filed on behalf of the petitioner before the Chairman and after due consideration of the appeal a notice was also issued to the petitioner and after personal hearing the same was rejected by the appellate authority and before the initiation of departmental proceeding on 30.01.1996 the respondent No.2 issued a show cause notice with respect to interpolation in the date of birth in which it has been stated that Sri Ajay Kumar Mandal unskilled Khalasi came in the service of the Board on 08.08.1997, service book was opened in the year 1981. In the first year of service book the date of birth 08.01.1954 was changed to 02.06.1958 and there was making a cut mark made the signature eligible on the cover page of service book and authenticated school transfer certificate was pasted in which year of relieving the school has been written as March 1972. Civil



Surgeon had issued a medical certificate in the name of Jay Kumar Mandal which was manipulated as Ajay Kumar Mandal thus it seems that Jay Kumar Mandal was appointed initially which was later on interpolated as Ajay Kumar Mandal. The respondent No.6 requested the petitioner to appear before him on 23.01.1996 the petitioner has admitted on advise of some of the officers of the office, he has added (A) in the school certificate of Jay Mandal and found on that basis the Officers of the Tele Communication has changed the date of birth of the petitioner as 02.06.1958 in place of 08.01.1954. Learned counsel for the Board submits that the initiation of departmental proceeding on a criminal act committed by the Govt. against criminal proceeding was also initiated in which the then Chief Secretary issued a circular where a Govt. employee has punished in the departmental proceeding and later on the employee was acquitted in the trial court had advised that since two proceeding has been initiated and there was a chance that some question could be taken in a departmental proceeding or division in the court have not gone into the specific circumstances, it has been decided by the Govt. that after passing the order of acquittal in the criminal proceeding even then in the departmental proceeding the Govt. servant can be dismissed.



11. Accordingly, the Court has directed the respondents (in CWJC No.5184 of 2001) to consider the case of the petitioner on the issue of quantum of punishment only and this Court was declined to interfere in the writ application of the petitioner on merits, and respondent authority has considered and accordingly rejected the case of the petitioner on the issue of quantum of punishment in accordance with law.

12. There is no merit in the writ application. Accordingly, it is dismissed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.04.2024.
Transmission Date	NA

