

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14799 of 2024

Chhathu Prasad s/o Lambodar Ram, R/o-Chhatra Sangh Lane, Mithapur B Area, P.O. and P.S.-Phulwari, District-Patna, Bihar-800001.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, State Taxes Department, Government of Bihar, Patna.
2. The Commissioner-cum-Secretary, State Taxes Department, Government of Bihar, Patna.
3. The Additional Commissioner, State Taxes Department, Government of Bihar, Patna.
4. The Joint Commissioner, State Taxes Department, Darbhanga Division, Darbhanga.
5. The Joint Commissioner, State Taxes Department, Khagaria Circle, Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kshitiz Kumar, Adv.

For the Respondent/s : Mr. Vivek Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 26-09-2024 Heard Learned Counsel for the petitioner and Learned Counsel for the State.

2. The present writ petition has been filed for quashing of the order dated 22.07.2019 contained in Memo No.205 (annexed as Annexure-5) and subsequently, for quashing of the Letter dated 02.09.2021 contained in Memo No.96 (annexed as Annexure-6).

3. Learned Counsel for the petitioner submits that petitioner was posted as Clerk in Jhanjharpur Circle. On 18.02.2016, when petitioner was going for dinner alongwith his



friends, a truck driver negligently came and touch the body one person and accordingly, the vehicle was intercepted by the local people due to which local people caught him and put question as to why he was driving the vehicle negligently. For this petty issue, a frivolous complaint has been filed against the petitioner in the department due to which he was suspended *vide* order dated 11.07.2017 under Rule 9(1) of the Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'CCA Rules, 2005'). The petitioner was subject to Departmental Proceeding initiated *vide* Memo No.434 dated 09.09.2017 and the petitioner was also made accused in Lakhnaur P.S. Case No. 28 of 2016 dated 22.02.2016 lodged under sections 341, 323, 379, 504 & 34 of the Indian Penal Code.

4. Learned Counsel for the petitioner further submits that in the Departmental Proceeding followed by enquiry, punishment has been imposed upon the petitioner *vide* order dated 20.09.2018 contained in Memo No. 230. Counsel submits that the said order was subsequently clarified *vide* Memo No.205 dated 22.07.2019 by which punishment for stoppage of three yearly increment with cumulative effect has been imposed for suspension period only and subsistence allowance was



payable and suspension period shall be counted for the purpose of pension. Counsel further submits that Departmental Proceeding was ended in the punishment mentioned above and on the other hand, in the Criminal Proceeding, only one prosecution witness was present and based on the deposition, petitioner and others were acquitted. Counsel submits that petitioner has filed representation before the Higher Authority for setting aside the order passed in the Departmental Proceeding on the ground that the petitioner has been acquitted in a criminal case. But order has been passed on 02.09.2021 by which prayer for setting aside the punishment order dated 20.09.2018 has been refused.

5. Learned Counsel for the State submits that from the pleading, it is not clear that after passing of the final order on 20.09.2018, which was subsequently clarified *vide* order dated 22.07.2019 whether petitioner has preferred statutory appeal or not. But from the order passed on 02.09.2021 which is annexed as Annexure-6, it only transpires that the petitioner has moved before the Joint Commissioner only on the ground that he has been acquitted in the criminal case and therefore, his punishment should be set aside. In this regard, Counsel for the State submits that Departmental Proceeding and Criminal



Proceeding are two different proceedings for two different purposes and therefore, there is no need of any interference in the said order and writ petition may be directed to be dismissed.

6. Upon the specific query of the Court that whether the petitioner has preferred departmental appeal under the CCA Rules, 2005 or not? Counsel for the petitioner submits that due to era of Covid-19, he is not in a position to answer this question.

7. In this view of the matter, this Court has no option but to pass order only on the points of pleadings and arguments available before the Court.

8. After hearing the parties and considering the present facts and circumstances of this case, this Court is of the firm view that Departmental Proceeding and Criminal Proceeding are two different aspects of the matter. In Departmental Proceeding, conduct of the parties are subject to scrutiny according to the service jurisprudence, whereas, in the Criminal proceeding, the constitution of offence and its ingredients with mens-rea has to be tested beyond all reasonable doubts, and in Disciplinary Proceeding, it is the approaching preponderance of probability is the rule.

9. As such, a person who has acquitted in a criminal



case cannot demand the relief that in Departmental Proceeding, he should also be exonerated, particularly in the light of the judgment of Hon’ble Supreme Court of India in case of ***T.N.C.S. Corporation Ltd. & Ors. Vs. K. Meerabai*** reported in ***(2006) 2 SCC 255*** where it has been held that “*the scope of disciplinary proceedings and criminal proceedings in a court of criminal law are quite distinct, exclusive and independent of each other. Moreover, the standards of proof in two proceedings are also different.*”

10. Hence, in this background and the reasons mentioned above, this Court is not inclined to interfere and therefore, the present writ petition stands dismissed.

(Dr. Anshuman, J)

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