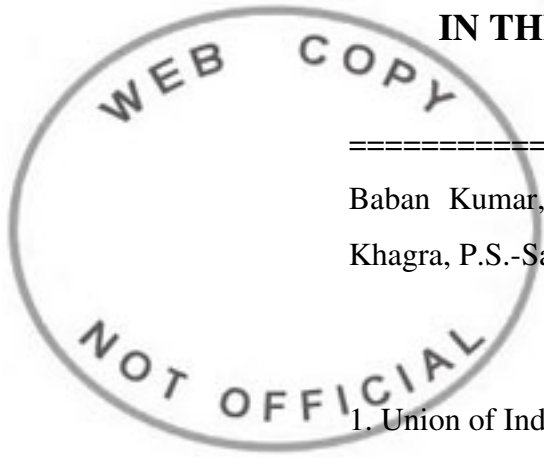




IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7528 of 1999

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Baban Kumar, Son of Sri Ranji Paswan, resident of Village-Majhaulia, P.S.-
Khagra, P.S.-Sadar, District-Muzaffarpur.

.... **Petitioner/s**

Versus

1. Union of India through the Secretary, Ministry of Home Affairs, New Delhi.
2. Inspector General, C.R.P.F., Bihar Sector, Patna.
3. D.I.G., C.R.P.F., Bihar Sector, Sheikhpura, Bailey Raod, Patna.
4. Commandant, 81 Battallion, C.R.P.F., Mantri Pukhari, Imphal.
5. D.I.G.P., Special Range, C.R.P.F., Old Secretariat, Delhi-54.

.... **Respondent/s**

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Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad, Advocate

For the Respondent/s : Mr. S.D. Sanjay, Sr. Adv. (Addl. Solicitor General)
Mr. Anshay Bahadur Mathur, Advocate (C.G.C.)

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

Date: 29-04-2015

Heard the parties.

2. This is application seeking quashing of the order
dated 05.10.1998 passed by the Commandant, 81 Battalion,
C.R.P.F., Mantri Pukhari, Imphal, whereby, the punishment of
dismissal from service has been imposed upon the petitioner.



The petitioner had preferred an appeal before the D.I.G., C.R.P.F., Special Range, Delhi, which also stood rejected by an order dated 21.05.1999. It appears that the petitioner had preferred revision petition against the orders of the Disciplinary Authority, i.e., Commandant, C.R.P.F. and the Appellate Authority, i.e., D.I.G., C.R.P.F., before the Inspector General, C.R.P.F. Bihar Sector. The Inspector General by an order dated 04.10.1999, which has been brought on the record by way of counter affidavit filed on behalf of the respondents, rejected the revision application also. The order of the Inspector General, C.R.P.F. is not under challenge in the present writ application and though no formal relief has been sought for quashing of the order passed by the Inspector General, C.R.P.F. on the petitioner's revision application by seeking amendment in a supplementary petition-cum-rejoinder affidavit, filed on behalf of the petitioner, a plea has been taken that the said order of Inspector General, C.R.P.F. also requires interference in the present proceeding.

3. I have perused the impugned orders including the order passed by Inspector General, C.R.P.F. It appears that following were the charges for which the departmental

proceeding was initiated against him:-

ARTICLE - I

THAT THE SAID NO. 941141256 CT BABBAN KUMAR OF F/81 BN, CRPF WHILE FUNCTIONING AS A CONSTABLE IN THE AFORESAID COY COMMITTED AN ACT OF MISCONDUCT IN HIS CAPACITY AS A MEMBER OF THE FORCE UNDER SECTION 11 (1) OF THE CRPF ACT, 1949 IN THAT HE LEFT THE LINES OF F/81 BN, CRPF PATNA (BIHAR) ON 31.03.98 AT ABOUT 1200 HRS WITHOUT OBTAINING PRIOR PERMISSION/OUT PASS FROM THE COMPETENT AUTHORITY AND REMAINED ABSENT TILL 2030 HRS ON SAE DAY WHEN HE REPORTED AT HIS OWN.

ARTICLE - II

THAT THE SAID NO. 941141256 CT BABBAN KUMAR WHILE FUNCTIONING IN THE AFORESAID COY IN THE AFORESAID CAPACITY COMMITTED AN ACT OF MISCONDUCT/DISOBEDIENCE OF ORDERS IN HIS CAPACITY AS A MEMBER OF FORCE



UNDER SECTION 11 (1) OF THE CRPF ACT, 1949 IN THAT HE WAS INFORMED IN THE ROLL CALL ON 1.4.98 THAT HE WOULD BE PRODUCED IN THE ORDERLY ROOM OF COMMANDANT ON 2.4.98 BUT INSTEAD OF REPORTING IN ORDERLY ROOM HE AGAIN LEFT THE LINES ON 2.4.98 AT ABOUT 0830 HRS AND REPORTED BACK AT HIS OWN ON THE SAME DAY AT ABOUT 2300 HRS WITHOUT ANY PERMISSION/OUT PASS FROM THE COMPETENT AUTHORITY.

ARTICLE - III

THAT THE SAID NO. 941141256 CT BABBAN KUMAR WHILE FUNCTIONING IN THE AFORESAID COY AND IN THE AFORESAID CAPACITY COMMITTED AN ACT OF MISCONDUCT/DISOBEDIENCE OF ORDER IN HIS CAPACITY AS A MEMBER OF THE FORCE UNDER SECTION 11 (1) OF THE CRPF ACT, 1949 IN THAT ON 1.4.98 HE INDULGED IN UNWANTED ARGUMENT IN A DISRESPECT MANNER TO HIS

SENIOR IE. COY CHM WHO WAS BRIEFING AND ASSIGNING DUTIES TO JAWANS IN THE MARKER WHICH IS AGAISNT THE GOOD ORDER AND DISCIPLINE OF THE FORCE.”

4. A disciplinary proceeding was held thereafter in which the witnesses were examined and evidence were adduced. The petitioner was given an opportunity to cross-examine the witnesses. The Enquiry Officer found the charges to have been proved in course of enquiry. The Disciplinary Authority, thereafter, after due application of mind, on the report of the Enquiry Officer as well as considering the evidence available on the records of the disciplinary proceeding, came to his own finding that the charges against the petitioner stood proved. Based on such finding, keeping in view the nature of charge levelled against the petitioner imposed upon him, the punishment of dismissal from the service of C.R.P.F. by the impugned order dated 05.10.1998. The order of the Disciplinary Authority is well considered. The Appellate Authority, i.e., Inspector General, C.R.P.F., New Delhi, rejected the petitioner's appeal and while



affirming the order of the Disciplinary Authority held that order of punishment of dismissal from service was rightly imposed upon the petitioner.

5. Before I proceed further, I must point out here itself that the Appellate Authority has mentioned in his order that in course of departmental proceeding, the petitioner accepted his guilt. Unfortunately, the petitioner has not brought on record the written statement of defence which he had submitted after service of memo of charge upon him, which, in my opinion, amounts to deliberate concealment of fact, which was relevant for adjudication of the present writ application. There is neither any statement in the writ application that the Appellate Authority wrongly recorded his order that the petitioner had accepted his guilt in course of the departmental enquiry, nor there is statement that the petitioner did not accept his guilt in course of the departmental enquiry. This depicts such conduct on the part of the petitioner which, as a matter of fact, disentitles him for any relief in a proceeding under Article 226 of the Constitution of India. I have gone through the order passed by the Revisional Authority, dated 04.10.1999 and I find that he has also discussed the plea taken by the petitioner

in his memo of appeal and revision application elaborately and has come to a finding that the petitioner was guilty of the misconduct, alleged against him.

6. Learned counsel appearing on behalf of the petitioner has placed reliance upon a decision of this Court reported in “1996 (1) PLJR 129” (*Nagendra Upadhayay vs. State of Bihar & Ors.*) and contended that the punishment imposed upon the petitioner is harsh and not commensurate with the nature of conduct alleged against. I refuse to accept such plea in view of the conduct of the petitioner, which I have noticed above. I am of the view, in the light of subsequent judgments of Supreme Court that unauthorized absence of an employee of a disciplined C.R.P.F. is a gross misconduct and punishment cannot be said to be shockingly disproportionate so as to require interference by this Court on that account in the present proceeding under Article 226 of the Constitution of India.

7. In my opinion, there is no reason for interfering with the orders passed by the Disciplinary Authority, the Appellate Authority or Revisional Authority, as I do not find any such infirmity in the orders which would require interference by

this Court in the present proceeding under Article 226 of the Constitution of India.

- 8. This application is, accordingly, dismissed.
- 9. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

Praveen-II/-

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