

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1624 of 2014

IN

Civil Writ Jurisdiction Case No. 3440 of 2014

- =====
1. The Union of India through Inspector General, Central Industrial Security Force, Ministry of Home Affairs, Eastern Head Quarter, Boring Road, Patna.
 2. The Inspector General, Central Industrial Security Force, Ministry of Home Affairs, Eastern Head Quarter, Boring Road, Patna.
 3. The Deputy Inspector General, Central Industrial Security Force, Ministry of Home Affairs, Eastern Head Quarter, Boring Road, Patna.
 4. The Group commandant, Central Industrial Security Force, Ministry of Home Affairs, Eastern Head Quarter, Boring Road, Patliputra, Patna-13.
 5. The Deputy Commandant, Central Industrial Security Force, KBUNL Unit, Kanti, Muzaffarpur.

.... Respondents-Appellants

Versus

Rajendra Singh S/o Sri Jamuna Singh R/o village- Ghorwanchh Tola - Chatar, P.O. - Puhupi, P.S. - Dinara, District- Rohtas.

.... Petitioner-Respondent

=====

Appearance :

For the Appellant/s : Mr. Raj Kamal, CGC

Mr. Sanjay Kumar, ASG

For the Respondent/s : M/s Shailesh Kumar & Satish Kr. Sinha

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 11-02-2015

I A No. 9197 of 2014

This application under Section 5 of the Limitation Act is filed with a prayer to condone the delay of 89 days in preferring the Letters Patent Appeal. It is stated that the delay was caused in the process of obtaining administrative sanction from the concerned authorities.

No counter affidavit is filed opposing the prayer for condoning the delay in preferring the appeal.

We are convinced with the reasons assigned in the

petition and the submission made in support thereof. The delay is condoned.

I A No. 9197 of 2014 is ordered accordingly.

LPA No. 1624 of 2014

The respondents in CWJC No. 3440 of 2014 filed this appeal, feeling aggrieved by the order dated 22.7.2014 passed by the learned Single Judge.

The facts are as under.

The sole respondent was appointed as a Constable in Central Industrial Security Force (CISF, in short) in the year 1989. In the year 2012, he was posted in CISF Unit, KBUNL, Kanti, Muzaffarpur. A charge-sheet dated 18.9.2012 was issued to him alleging that during the hours of his duty between 9 PM on 27.8.2012 to 5 AM on 28.8.2012, theft of 19 TMT Bars, valued at Rs.87,883/- has taken place and the respondent did not report the incident. It was also mentioned that on search conducted soon thereafter, the stolen articles were recovered. The second charge framed against the respondent was to the effect that in course of his service, he was inflicted as many as five minor punishments and that he is “incorrigible”.

The respondent submitted his explanation denying the charges. Departmental enquiry was conducted and the enquiry officer submitted his report to the effect that both the charges are proved. Taking into account, the report, the disciplinary authority issued the second show cause notice to the respondent. On a consideration of the explanation submitted thereto, the disciplinary authority passed an order dated 30th March 2013 imposing the punishment of compulsory retirement from service with full benefits, against the respondent.

The respondent filed an appeal before the Deputy

Inspector General and, on dismissal of the same, filed revision before the Inspector General. That was also dismissed. Hence, the respondent filed CWJC No. 3440 of 2014 before this Court. The respondent pleaded that theft of 19 TMT Bars did not take place during the duty hours and that there was no basis for framing of charges, or for the findings of the enquiry officer. The appellants filed counter affidavit opposing the writ petition.

The learned Single Judge took the view that entries in the Beat Book were not taken into account in the enquiry. On that basis, the order of punishment was set aside and the matter was remanded to the disciplinary authority, for passing fresh orders in accordance with law. Hence, this appeal.

Heard Sri Sanjay Kumar, learned counsel for the appellants, and Sri Shailesh Kumar, learned counsel for the respondent.

The allegation against the respondent was that during his duty hours theft of 19 TMT Bars had taken place and the same was not reported. In addition to the said incident, another charge was framed which is to the effect that the respondent is incorrigible. The enquiry officer submitted the report holding the charges are proved and after giving opportunity to the respondent, the appellants imposed the punishment of compulsory retirement.

Basically, the learned Single Judge took note of the fact that certain entries in the Beat Book were not taken note of. He did not interfere with the report of the enquiry officer but remanded the matter to the disciplinary authority for fresh consideration. Though the respondent himself did not file an appeal we find another infirmity in the disciplinary proceedings. The second charge cannot at all be sustained in law. It does not refer to any incident as such. The gist

thereof is that that the respondent has been imposed minor punishment on five occasions. That is simply a matter of record and cannot constitute an independent charge.

Therefore, we are of the view that, be it on the point of verification of the entries in beat book or the untenability of charge no.2 the matter has to go to the disciplinary authority, for fresh consideration. However, since the enquiry report is kept intact, maybe in the context of only one charge, it may not be necessary to reinstate the respondent herein. He shall continue to be under suspension till the disciplinary authority passes an order, confining the consideration only to the finding in charge no. 1 and after taking into account, the explanation which may be submitted by the respondent, particularly in relation to the entries in the Beat Book. The appointing authority, i.e. the 4th respondent, shall pass order within four weeks from the date of receipt/production of a copy of this order. The nature of steps to be taken thereafter would depend upon the view, which the 4th respondent may take in compliance with the order of this Court.

Letters Patent Appeal is disposed of accordingly.

All the Interlocutory Applications shall stand disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Vikash Jain, J)

mrl

A F R

U			
---	--	--	--