

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1659 of 2015

IN

Civil Writ Jurisdiction Case No. 16071 of 2008

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Dharmendra Kumar Yadav Son of Late Bodhan Yadav, R/o Village -
Choti Mirzapur, P.S. - Kasim Bazar, District - Munger.

.... Appellant

Versus

1. The Union of India, through the Director General, Central Industrial Security Force, Head Quarter, C.I.O. Complex, Lodi Road, New Delhi.
2. The Inspector, General, Central Industrial Security Force, C.I.S.F., Office Complex, E.S. HQR, Boring Road, Patliputra, Patna - 11.
3. The Deputy Inspector General, C.I.S.F., Eastern Zone, Group Headquarter, Boring road, Patliputra Colony, Patna - 11.
4. The Group Commandant, Central Industrial Security Force, C.I.S.F., Office Complex, Boring Road, Patliputra, Patna - 13.
5. The Deputy Commandant, C.I.S.F., Unit, L.O.C., Barauni

.... Respondents

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Appearance :

For the Appellant/s : Mr. Rajeev Kumar Singh, Advocate
Mr. Arvind Kumar Singh, Advocate
Mr. Shashi Bhushan Kumar, Advocate
For the Union of India: Mr. Sanjay Kumar, (A.S.G.)

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 22-09-2015

Heard learned counsel for the appellant and
learned counsel for the respondents.

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The present appeal is directed against judgment and order dated 04.08.2014, passed in C.W.J.C. No. 16071/2008, by which the writ petition, filed by the appellant, has been dismissed.

The writ petitioner-appellant was in Central Industrial Security Force (in short the "C.I.S.F."), and by the orders impugned, he was removed from service after a duly constituted disciplinary proceedings. All the authorities consistently held that the charges were proved. When the matter came up before the learned Single Judge upon the writ petition filed, the learned Single Judge examined the matter and clearly came to a finding that there was no challenge to any procedural lapse nor there is any allegation of violation of principles of natural justice.

What was essentially argued before the learned Single Judge was with regard to disproportionality of sentence. We can only reiterate what was said by learned Single Judge. In judicial review, it is not the decision but the decision making process, that has to be seen. We do not sit in appeal over the order of the authorities much less the concurrent finding of the authorities. The charges having been proved, they are questions of fact. There are concurrent finding of fact by the disciplinary



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authority, the appellate and under Revisional Authority. This Court could not and would not go into those aspects.

Coming to the question of disproportionality, we must first take into account that this is a case of uniformed service. Apart from others, we could refer to charge no. 2 with regard to unauthorized absence, and the charge no. 4, wherein it has specifically been noted that on several earlier occasions he had been already visited with punishments, but he failed to improve his conduct.

If this be the attitude of a person in an uniform service, the question would be, does he deserve any sympathetic consideration even in limited scope of disproportionality of punishment. Our answer would be no. Such acts of indiscipline cannot be countenanced in a uniform service. The appellant writ petitioner is fortunate that he was not dismissed from service he was only removed from service.

We, thus, find no ground to interfere. This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/N.A.F.R.

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