

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9192 of 1998

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Buchun Ram @ Buchan Ram S/o Late Seho Nandan Ram, resident of Ward
No. 10 of Bhabua Town, PS Bhabua district Kaimur

.... Petitioner

Versus

1. The Union of India through the Secretary, department of Home, New Delhi
 2. I. G., CISF, Patna
 3. D.I.G., CISF, Patna
 4. Commandant, CISF, Nalco I/C P.P.T. Paradeep, Orissa
 5. Mr. B. K. Naik, Inspector and Enquiry Officer, P.P.T. Paradeep, Orissa
- Respondents
- =====

Appearance :

For the Petitioner : Mr.

For the Respondents : Mr. Rajesh Kr. Verma CGC

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

5 20-02-2015 The petitioner has sought for quashing of an order dated 27/28.2.1997 (annexure-6) passed by the Commandant, Central Industrial Security Force (hereinafter referred to as the CISF) P.P.T. Paradeep, Orissa whereby, he has imposed upon him punishment of removal from service in exercise of power conferred upon him under Rule 29A, Schedule-II of the CISF Rules, 1969.

The petitioner was a Constable in CISF and when he was posted at Paradeep in that capacity on 18/19.04.1996 an allegation was made against him that while he was at gate No.5 with another fellow Constable Anand Rao he allowed fishermen to enter without pass, after receiving illegal gratification from twenty of them. His activity was allegedly

witnessed by the Inspector, CISF, N. C. Choudhary and K. R. Raju. It is alleged that when they reached the gate, the petitioner threw a polythene bag on the ground and subsequently admitted his guilt and prayed for pardon.

A Disciplinary proceeding was initiated against him for the said misconduct with the service of charge upon the petitioner on 26.04.1996, which read thus:-

"No. 774500485, Naik Buchan Ram of CISF Unit PPT Paradeep is charged for gross misconduct and dereliction of duty in that the said No. 774500485, Naik Buchan Ram was detailed for duty at gate No.5 from 1900 hours on 18.04.96 to 0700 hrs on 19.4.96. While on duty at the aforesaid gate he collected money from the fishermen and allowed them to enter inside the Port area and kept the money so collected in a polythene pocket amounting to Rs. 85.60. The above act on the part of No. 774500485, Naik Buchan Ram amounts to gross misconduct and dereliction of duty".

The petitioner submitted his written statement of defence on 10.05.1996 denying the charge and asserted that 8-10 fishermen had came at gate no. 5 and wanted to enter. He asserted that the fellow Constable, Anand Rao was standing on the gate and was allowing fishermen after verifying their passes. He also took a plea that on 19.04.1996 at 3.50 hours only one fisherman was without any gate pass who went towards tea stall and after half an hour he came on gate no.5 in darkness and approached the fellow Constable, Anand Rao for entry, which was denied. He also asserted that as per verbal instruction of higher authorities, entry was



allowed to the said fishermen. He took a plea that the said person, who was without pass, while entering through gate no.5, threw something on the ground, whereafter Inspector N. C. Choudhary and K. R. Raju reached on the gate and with the help of torch a polythene packet was found containing a sum of Rs. 85.60/-.

In course of departmental enquiry, the said N. C. Choudhary was examined as prosecution witness who categorically stated that he along with the said K. R. Raju had seen the petitioner from tea shop, taking money from the fishermen who were 20 in number. The said K. R. Raju was also examined as prosecution witness No.2. It is the claim of the petitioner that he (P.W. 2) did not support the allegation. The enquiry officer, upon considering the evidence on record, came to a finding that the petitioner was guilty of misconduct alleged against him. The enquiry report was supplied to the petitioner and he was given opportunity to respond to the said enquiry report. The petitioner availed such opportunity and filed his representation against findings of the enquiry officer. Thereafter, the Commandant, being the disciplinary authority, passed the impugned order dated 27/28.02.1997, after considering the materials available on record, imposed upon the petitioner punishment of dismissal from service. The petitioner preferred an appeal before the Appellate Authority, i.e., the Deputy Inspector General of



police, who found that there was no legal infirmity in the departmental enquiry, on the basis of which it could be said that the enquiry was null and void. He came to a conclusion that the charge framed against the petitioner was serious and the punishment imposed against him was commensurate with the nature of charge leveled against him. The petitioner thereafter filed revision petition before the Inspector General, CISF, Eastern Headquarters, Patna. The revisional authority has also rejected his plea.

It is the plea on behalf of the petitioner that his appeal and revision were dismissed without application of mind, in most mechanical manner.

On perusal of materials on record, I find that the petitioner was proceeded against departmentally for a grave charge of accepting money from the fishermen in order to allow their entry without pass. It came in course of the departmental enquiry that the officers of the CISF witnessed the petitioner taking bribe from the fishermen. The said Inspector deposed in course of departmental enquiry that he seen the petitioner taking bribe from the said fishermen and not only this, a sum of Rs. 85.60/- was found lying near the petitioner when Inspectors of CISF made a search.

It is well established law that finding of fact arrived at by the enquiry officer/ disciplinary authority in a departmental enquiry cannot be disturbed unless it is found

to be perverse. No doubt a finding can be said to be perverse only if there has been no application of mind, the same is based on no evidence or it is contrary to the findings available on record. In the present case, I find that the evidence was there before the enquiry officer/ disciplinary authority on the basis of which they could have come to the conclusion as regards petitioner's guilt. This being the position, the finding of the disciplinary authority that this petitioner is guilty of the charge, cannot be disturbed. I am of the view, keeping in mind the gravity of charge alleged against the petitioner, that the punishment imposed upon him cannot be said to be disproportionate to the gravity of charge.

I have perused carefully the orders passed by the Appellate Authority as well as the Revisional authority which are well discussed and reasoned and they also do not need any interference.

This writ application is, accordingly, dismissed.

(Chakradhari Sharan Singh, J)

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