

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1205 of 2014
IN
Civil Writ Jurisdiction Case No. 19882 of 2010

=====

Sanni Singh, Son of Sri Naval Kishore Singh, Resident of village + P.O.
Hasna, P.S. Gaighat, Distt. – Muzaffarpur.

.... Appellant

Versus

1. The Union of India through the Ministry of Home Affairs, New Delhi
2. The Inspector General of Police, Central Reserve Police Force
(C.R.P.F.), Bihar Sector, Patna.
3. The Deputy Inspector General of Police, Central Reserve Police Force
(C.R.P.F.) Shri Nagar, Jammu and Kashmir.
4. The Deputy Inspector General of Police, Central Reserve Police Force
(C.R.P.F.), Digha Road, Patna 25, Bihar
5. The Deputy Inspector General of Police, Central Reserve Police Force
(C.R.P.F.), Mokamaghat, Bihar
6. The Commandant, 21 Battalion, Central Reserve Police Force, Sri
Nagar, Jammu & Kashmir.
7. The Deputy Commandant, 21 Battalion, Central Reserve Police Force,
Sri Nagar, Jammu & Kashmir
8. The Company Commandant, 21 Battalion, Central Reserve Police
Force, Sri Nagar, Jammu & Kashmir.

.... Respondents

=====

Appearance :

For the Appellant : Mr. Rajeev Kumar Singh, Advocate
For the Respondent s : Mr. Sanjay Kumar (A.S.G.)

=====

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
And
HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

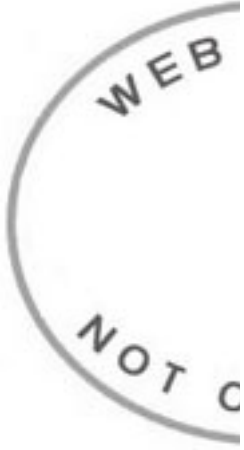
Date: 04-12-2015

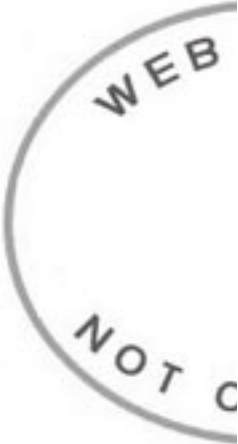
This Intra-Court Appeal arises from the judgment and order dated 25.02.2014 of the learned Single Judge passed in C.W.J.C. No. 19882 of 2010, dismissing the writ petition filed by the appellant, who was the writ petitioner.

2. The writ petitioner/appellant had challenged the order of dismissal as passed by the Disciplinary Authority of the Central Reserve Police Force (in short the “C.R.P.F.”), which was affirmed in appeal and in revision.

3. We have heard learned counsel for the parties, and with their consent, we are disposing of this appeal at this stage itself.

4. Learned counsel for the writ petitioner /appellant submits that the entire disciplinary inquiry stands vitiated on the ground of non-compliance of principles of natural justice. He then submits that proceeding having been initiated under Section 11 of the C.R.P.F. Act, 1949, no punishment of dismissal could have been issued, as Section 11 deals with minor punishment. He, thirdly, submits that in that view of the matter, the punishment is grossly disproportionate to the delinquency alleged.





5. We have heard learned counsels at length and we are not inclined to interfere. So far as the denial of principles of natural justice is concerned, from the judgment and order under appeal, we find that learned Single Judge had taken steps to call for and examine the original records of the proceedings. He has so noted in his order after thorough examination of records. The learned Single Judge came to a finding that in spite of repeated opportunities have been given, writ petitioner/appellant refused to cooperate in the proceedings. These findings of the learned Single Judge have not been challenged. What has been said that all these are facts have been created, merely because, the writ petitioner had complained against the Commandant and others. In the past also, he had been put in prison for 30 days.

6. We are not impressed. Firstly, the learned Single Judge carried out the whole exercise of keeping and examining the records in original, which findings are not challenged before us. We would be bound by the findings of the learned Single Judge in this regard. The learned Single Judge has noted that on every occasion writ petitioner/appellant was served the order, the summons

which he read but refused to acknowledge/receive thereof.

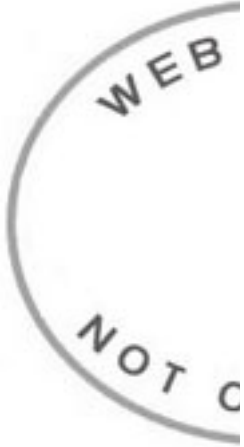
As has been said very often, principles of natural justice is not either a bull in a China shop or an unruly horse, it is on equitable principles and fundamentals of good administration.

7. To the submissions, that the writ petitioner/appellant was being harassed for having made a complain, we would only like to observe that the writ petitioner/appellant was not imprisoned for 30 days, rather he was confined to barracks for 30 days, and to that extent, which he admitted. He had left his entry guard post, where he was given Light Machine Gun (LMG) duty in a sensitive area, without waiting for his reliever; this was, in our view, very serious dereliction.

8. Be that as it may, in our view, there is no infraction of principles of natural justice in any manner.

9. It is then submitted that Section 11 of the C.R.P.F. Act provides only for minor punishment. The proceeding having initiated with respect to Section 11 of the Act, as such no order of dismissal could be passed.

10. In our view, all the contentions being raised in this regard are squarely answered by the Apex



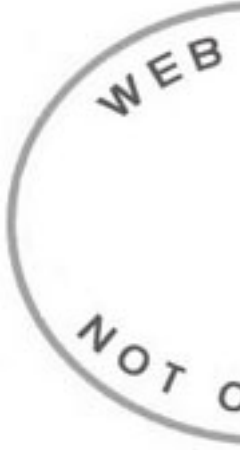
Court in the Case of **Union of India and others vs. Ghulam Mohd. Bhat** since reported in (2005) 13 SCC 228; and in specific paragraph nos. 6 and 7 thereof which are quoted hereunder:

“6. The use of the words “in lieu of, or in addition to, suspension or dismissal”, appearing in sub-section (1) of Section 11 before clauses (a) to (e) shows that the authorities mentioned therein are empowered to award punishment of dismissal or suspension to the member of the Force who is found guilty and in addition to, or in lieu thereof, the punishment mentioned in clauses (a) to (e) may also be awarded.

7. It may be noted that Section 9 of the Act mentions serious or heinous offences and also prescribes penalty which may be awarded for them. Section 10 deals with less heinous offences and clause (m) thereof shows that absence of a member of the Force without leave or without sufficient cause or overstay without sufficient cause, is also mentioned as less heinous offence and for that also a sentence of imprisonment is provided. It is, therefore, clear that Section 11 deals with only those minor

punishments which may be awarded in a departmental inquiry and a plain reading thereof makes it quite clear that a punishment of dismissal can certainly be awarded thereunder even if the delinquent is not prosecuted for an offence under Section 9 or Section 10.”

11. The next submission is with regard to disproportionality of punishment. One of the charges against the writ petitioner/appellant was that, he had taken the Guard Duty Register unauthorizedly into the market for certain parts thereof for photocopy. It is submitted that this was a minor dereliction. It should not attract the extreme punishment of dismissal. We may point out that writ petitioner/appellant was at that time posted in the most disturbed area of Srinagar. He was in routine manner given guard duty at LMG Post in the Camp where arms and ammunitions were kept by C.R.P.F. The Guard Duty Register contains the movement and duties assigned to various officials for protection of arms and ammunitions at the Camp. The writ petitioner/appellant does not deny that he had carried this entire register to the market and had got some pages thereof photocopied. Some pages have even been produced before us only to show that nothing



sensitive was copied. That is a categorical admission to the allegation. It is not the question of leaking sensitive information, but the allegation is of compromising security, and that too unauthorizedly, and for the purpose, that is a serious enough dereliction.

12. Apart from this, for the reasons aforesaid, we are not inclined to interfere in the matter. This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J)

Rajeev/A.F.R.

U			
---	--	--	--