

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9048 of 2000

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America Ram Son of Late Rajendra Ram Vill :- Methauli, P.O.
Ojhwalia, P.S. Bairia, District West Champaran at Bettiah

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar Old Secretariat, Patna
2. Director General cum Inspector General of Police, Bihar, Old Secretariat, Patna
3. D.I.G. of Police, Champaran Range, Bettiah,
4. S.R. Bettiah
5. Commandant, B.M.P. 4, Bokaro

.... Respondents

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Appearance :

For the Petitioner : M/s Ram Hriday Prasad &
Sanjiv Kumar, Advocates

For the State : M/s Upendra Pratap Singh and S.K.Malick
A.C. to S.C. 25

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN
ORAL JUDGMENT
Date: 01-04-2015

I have heard the parties.

Petitioner seeks quashing of the order dated 31.3.1999 passed by the Commandant, Bihar Military Force, Bokaro by which he has been dismissed from service for being absent for about 97 days without any information and also the appellate order dated

18.6.1999 passed by the Deputy Inspector General of Police, Champaran, Bettia by which the appeal filed by the petitioner against the order of dismissal has also been dismissed.

Petitioner claims that he was appointed on compassionate appointment and was under probation in the Basic Training Camp at Bokaro. He was served with the charges contained in Annexure 1 for his alleged unauthorized absence for 43 days and again for 48 days on different dates.

Learned counsel appearing for the petitioner has submitted that petitioner had gone for treatment of his mother and since he was appointed on compassionate ground, it was his bounden duty to look after his ailing mother also.

However, from the order it appears that petitioner has not co-operated during the departmental proceeding also and remained absent for long period. That had compelled the inquiry officer to pass *ex parte* inquiry report. The petitioner was given second show cause notice also for the proposed dismissal. However, though he was sanctioned five days leave also for that purpose, he did not file any reply thereto. Therefore, the petitioner's plea taken subsequently that he was engaged in mother's treatment appears to be an afterthought as the same ought to have been brought on record by him in course of inquiry or even in reply to the second show cause

notice which he had failed to do so. Not only that, he had remained absent from the training camp without any information on several other previous occasions also for which he was inflicted with minor punishment.

Learned counsel for the petitioner has lastly submitted that the punishment is harsh as he has been dismissed from service only for 97 days absence. Learned counsel has placed reliance upon a decision of a Single Bench of this Court reported in **1996(1) PLJR 129 [Nagendra Upadhyay vs. The State of Bihar & Ors.]** in support of his aforesaid submission. In my considered opinion, the aforesaid decision would be of no help of the petitioner for the reason that it was a clear case of discrimination between two persons as one person was given only one black mark entry whereas similarly situated other person was given punishment of dismissal. That apart, this type of conduct cannot be accepted and allowed in a disciplined force.

Petitioner is merely a probationer and he has conducted himself in such a manner. Time without number he remained absent without any reason and, thereafter, he has also not cooperated in the disciplinary proceeding and remained absent all along as a result of which Inquiry Officer was compelled to submit *ex parte* inquiry report. He has not even responded to the second show cause notice

also though 5 days leave was granted as per his desire for that purpose.

In the aforesaid facts and circumstances, I am of considered opinion that the punishment given to the petitioner is not harsh and is commensurate to the charges which have been proved.

Accordingly, this application is dismissed. However there would be no order as to costs.

(Dr. Ravi Ranjan, J)

Spd/-

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