

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1052 of 2014

In
Civil Writ Jurisdiction Case No. 7169 of 2011

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1. The Union of India through the Secretary, Union Home Ministry, Government of India, New Delhi
 2. The Director General, CRPF CGO Complex, North Block, Lodhi Road, New Delhi
 3. The I.G. of Police, Bihar Sector, CRPF, Patna
 4. The D.I.G. of Police, CRPF, Patna
 5. The Addl. DIGP(Now DIGP) Group Centre, CRPF, Mokamaghat, Patna (Bihar)
 6. The Assistant Commandant, Group Centre, CRPF, Mokamaghat, Patna (Bihar)

.... Appellant/s

Versus

Md. Jahid Khan, son of Late Md. Aziz, resident of Village- Lakhnandhand, Police Station- Mokama, Distt- Patna

.... Respondent/s

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Appearance :

For the Appellants : Mr. Sanjay Kumar, A.S.G.
For the Respondent : Mr. Dharendra Nath Jha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER
(Per: HONOURABLE THE CHIEF JUSTICE)

6 23-06-2015 This appeal is preferred against the order dated 3.2.1014 passed by the learned single Judge in CWJC No.7169 of 2011.

The respondents in the writ petition are the appellants.

The sole respondent herein was employed as a Constable in the C.R.P.F. Disciplinary proceedings were initiated against him alleging acts of misconduct and he was placed under suspension. The disciplinary authority i.e., the 5th



appellant passed the order dated 9.8.2005 dismissing the respondent from service. The appeal and revision filed by the respondent were rejected through orders dated 23.3.2010 and 4.10.2010 respectively. Thereafter, he filed CWJC No.7169 of 2011 challenging the order of dismissal, as affirmed in the appeal and revision.

The principal ground urged by the respondent is that copy of the enquiry report was not furnished to him and thereby the entire proceedings are vitiated.

The plea of the appellants is that though report was sent to the respondent, it was not served upon him, since he left the place of his residence and as such, it shall be deemed to have been served.

The learned single Judge allowed the writ petition on the ground that non-furnishing of the report of the enquiry officer has vitiated the disciplinary proceedings. Hence, this appeal.

Heard Shri Sanjay Kumar, learned Assistant Solicitor General for the appellants and Shri Dhirendra Nath Jha, learned Advocate for the respondent.

This is not a case where the disciplinary authority did not make attempt to serve a copy of the report of the enquiry



officer. The record discloses that it was sent through registered post, but was returned with the endorsement that the addressee left the place. We proceed on the assumption that the report of the enquiry officer was not furnished to the respondent, whatever be the reason.

The assumption that the disciplinary proceeding gets vitiated in case the report of the enquiry officer was not furnished to the employee was set at rest by the Supreme Court in **Managing Director, ECIL v. B. Karunakar [(1993) 4 SCC 727]**. Their Lordships held that it is only when prejudice is said to have been caused to the delinquent employee on account of any lapse in the disciplinary proceedings, that the occasion would arise to set aside the proceedings and to direct reinstatement. Their Lordships further held that if it emerges that the report of the enquiry officer is not furnished to the delinquent employee, it must not entail in automatic reinstatement of the employee. It was also held that in such cases the proceedings must be resumed from the stage of furnishing of enquiry report. Obviously because the said judgment was not brought to the notice of the learned single Judge, the law laid down therein was not followed.

We, therefore, partly allow the appeal directing that

(a) the order of punishment dated 9.8.2005 shall stand set aside;
(b) the 5th respondent shall furnish copy of the report of the enquiry officer to the respondent-employee within four weeks from today and it shall be obligatory on the part of the respondent to collect the same from the office of the 5th respondent; (c) within four weeks thereafter, the respondent shall submit reply and thereafter the 5th respondent shall pass appropriate order within four weeks thereafter and (d) till such orders are passed, the respondent shall be deemed to be under suspension.

The interlocutory application, if any, shall also stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

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