

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.907 of 2014

IN

Civil Writ Jurisdiction Case No. 4236 of 2012

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1. The Union of India through the Secretary, Ministry of Home Affairs, New Delhi
 2. The D.G. of Police, CISF, Head Quarter, New Delhi
 3. The I.G., CISF, Patna
 4. The D.I.G., CISF, Patna
 5. The Commandant, CISF, Unit Khstpp, Kahalgaon
 6. The Deputy Commandant, CISF, Khstpp, Kahalgaon
 7. The Assistant Commandant, CISF, Unit Khstpp, Kahalgaon

.... Respondents- Appellants

Versus

Kiran Deo Singh, Son of Late Mridaya Singh, Resident of village Rankodih, PS-
Khagaria, District- Khagaria

.... Petitioner-Respondent

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar, Advocate (ASG)

For the Respondent/s : Mr. Bishwa Bibhuti Kumar Singh, Adv.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 13-05-2015

This Appeal is preferred against the order dated
23.1.2014, passed by the Learned Single Judge in C.W.J.C.
No.4236/12. The respondents in the writ petition are the
appellants.

Sole respondent herein was appointed as the



constable in the Central Industrial Security Force (for short C.I.S.F.) way back in the year 1980. Through an order dated 20th August, 2011, the Commandant, C.I.S.F. Unit Khstpp, Kahalgaon, the 5th respondent herein, directed retirement of the respondent on completion of 55 years of age/30 years of service. The said order was challenged in the writ petition. It was pleaded that though the provision enables the appointing authority to retire a person before he attains the age of superannuation, the power must be exercised in public interest, and nothing of that sort was mentioned in the order.

The appellants filed a detailed counter affidavit opposing the writ petition. It was stated that though the respondent was rewarded for his services on certain occasions, he was imposed punishment on as many as 25 occasions, and that it is not advisable at all to continue him in service. It was also pleaded that no monetary or other loss was caused to him.

Learned Single Judge took the view that the order challenged in the writ petition did not mention the existence of public interest and thereby has set aside the same. It was left open to the appellant to take a final decision by invoking Clause-(J) of Sub-rule(2) of Rule-56

of the Fundamental Rules of Central Civil Service (Pension) Rules, 1972. Hence, this Appeal.

Heard Shri Sanjay Kumar, Additional Solicitor General, for the appellants and Shri Bishwa Bibhuti Kumar Singh, learned counsel for the 1st respondent.

It is fairly well established that the parameters of adjudication in service disputes pertaining to the persons of uniformed service are substantially different from those that are applied to other civil servants. The paramount consideration would be the discipline and efficiency in the force.

The respondent was appointed as constable way back in the year 1980. The record discloses that he was extended the benefit of cash reward on about 10 occasions, in appreciation of his service. That, however, was, up to the year 1999. Thereafter, he did not earn any such reward. On the other hand, he was imposed punishments of one kind or the other on as many as 25 occasions, the latest being on 24.7.2011 wherein it was stated that he was sleeping, while on duty post.

May be on account of age or other stress, the respondent is not in a position to discharge the duties assigned to him effectively. The appellant did not intend to

impose any punishment. 30 years of service is fairly long, for any individual, in any organization. Putting an end to the service at that stage, even while ensuring the pension and other benefits cannot be said to be punishment.

In the order of compulsory retirement, it was clearly mentioned that the step was taken in public interest. The view taken by the Learned Single Judge that the public interest was not mentioned in clear terms, is difficult to be sustained in the facts of the case. The reason is that if the negative factors referable to the respondent are required to be mentioned, it may entail even punishment or indictment. When the effort of the appellant was only to give a respectable exit to the respondent from the service, they cannot be expected to mention any negative factors. If the matter is to be examined from that angle, it may even entail some disciplinary actions.

We are of the view that the order of compulsory retirement, passed against the respondent does not suffer from any infirmity and, accordingly, allow the Appeal and set aside the order under appeal, passed by the Learned Single Judge. We direct that the appellant shall process the pension papers of the respondent immediately and

extend him the benefits forthwith.

Interlocutory application, if any, stands disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Sudhir Singh, J)

K.C.jha/-
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