

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.243 of 2015

IN

Civil Writ Jurisdiction Case No. 15806 of 2008

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Shiva Prakash Singh Son of Late U.D. Singh, Resident of village -
Mahamoodpur, P.O. Dih, Dhaggupur, P.S. + District - Sultanpur (Uttar
Pradesh).

.... Appellant

Versus

1. The Director General, Central Industrial Security Force, Ministry of
Home affairs, Block - 13 C.G.O's Complex, Lodi Road, New Delhi -
3.

2. The Commandant Disciplinary Authority, Central Industrial Security
Force, Rourkela Steel Plants, Rourkela - 7690011 (Orissa).

3. The Deputy Inspector General - Appellate Authority, Central
Industrial Security Force, C.I.S.F., Unit, Rourkela Steel Plant, Rourkela
- 769011 (Orissa).

4. The Inspector General, Central Industrial Security Force, C.I.S.F.
office Complex, Boring Road, Patliputra, Patna – 13.

.... Respondents

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Appearance :

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

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 28-08-2015

An application has been filed for
condonation of delay in filing this appeal.

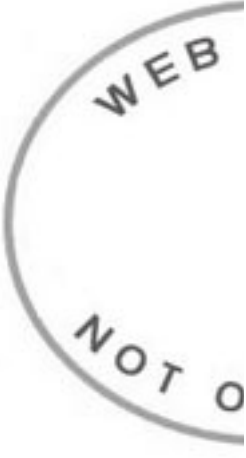
2. While hearing to condonation of delay,

we went through the circumstances of this case and while condoning the delay in filing appeal, with consent of the parties, we have heard in respect of merits of the appeal.

3. The writ petitioner/appellant was an Assistant Sub-Inspector in Central Industrial Security Force (in short the “C.I.S.F.”) and posted at Rourkela Steel Plants, Rourkela, Orissa. The departmental proceeding was initiated against him only because he used to collect illegal gratification from all the vehicles entering in the Steel Plant. He denied the charges in the departmental proceedings. It was resolved to remove him from service.

4. The finding of the disciplinary authorities being final he challenged the same before the Orissa High Court unsuccessfully. He went to Apex Court, the Apex Court remanded the matter in the special facts and circumstances of the case granting opportunity to the writ petitioner/appellant to cross-examine Sri P.K. Nayak, and specifically noting that the appellant could not be permitted to adduce any other evidence. When the matter being so taken up, the appellant was allowed to cross-examine Sri P.K. Nayak. Now, Sri Nayak turned hostile,





alleging that he had made a complaint at instigation of one E.K. Kutty. On Mr. Kutty being named, he appeared in the proceedings and deposed to the contrary. The disciplinary proceedings were, thus concluded this time with an order of punishment of stoppage of two increments with cumulative effect. The appellant took the matter in appeal and thereafter in revision. Both the authorities have chosen to ignore the evidence of Mr. Kutty and yet they have sustained the punishment. It is under those circumstances, the writ petition was filed.

5. The learned Single Judge noticing that the Revisional and the appellate authority have not taken into account the evidence of Mr. Kutty, dismissed the writ petition finding no procedural infirmity.

6. We have also gone through the order impugned. Being judgment of the learned Single Judge at the orders impugned in the writ proceedings in judicial review, this court does not sit in appeal over the judgment of disciplinary authorities. It is not the correctness of the judgment that is to be judged, but the procedural correctness that has to be seen. There being no infirmity procedurally in the disciplinary proceedings. We are of the

view that learned Single Judge rightly dismissed the writ petition, we also did not find any merit in the appeal, which is dismissed, accordingly.

7. Learned counsel for the appellant then points out that while the writ proceedings was pending, the writ petitioner/appellant was compulsorily retired. He had brought this to the notice of the Court by filing the Interlocutory Application in the writ proceedings with a prayer to set aside the same. In the same application, we have also stated that as against the order of compulsory retirement he had filed an appeal which was pending. The grievance is made that the learned Single Judge did not deal with this aspect of the matter.

8. First, we would like to observe that as this relates to correction of records, it was for the appellant to first move the learned Single Judge in this regard, as has been held by the Apex Court in the case of **State of Maharashtra Vs. Ramdas Shrinivas Nayak** since reported in **AIR 1982 SC 1249**. However, we need not delay in the matter because writ petitioner/appellant is already pursuing his statutory remedies as against the order of compulsory retirement.



9. This Court, in such a situation, was not required to interfere in the matter. It is open to the writ petitioner/appellant to pursue his remedies as he may be advised. This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/N.A.F.R.

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