

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.117 of 2015
IN
Civil Writ Jurisdiction Case No. 4316 of 2008

- =====
1. The Union Of India through the Home Secretary, New Delhi
 2. The Home Secretary, Union of India, New Delhi
 3. The Inspector General of Police, B.S., CRPF, Patna, Bihar
 4. Deputy Inspector General of Police, CRPF. Ashiana Digha Road, PO Ashiana Nagar, Patna
 5. Commandant, 36 Battalion, CRPF, ITI Complex, Gaya, Bihar
 6. Deputy Commandant, 36 Battalion, CRPF, Gaya, Bihar

.... Respondents /Appellants

Versus

1. Shashi Bhushan Prasad Ray S/o Sri Sanchit Prasaad Rai, resident of Village Bhagwanpur, PS Daryapur, District Chapra (Saran)
2. Manoj Prasad, S/o Asharfi Lal Rai, Resident of Village Chandpura, Post Bhagwanpur, PS Parsa, District Siwan (Bihar)

...Petitioner /Respondent 1st set

.... Respondent/ Respondent 2nd set

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Appearance :

For the Appellant/s : Mr. Satyavrat Verma, CGC

For the Respondent/s : Mr. Prakash Shrivastava, Advocate

Mr. Shashi Bhushan Kumar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 24-07-2015

I A No. 524 of 2015

This interlocutory application is filed under Section 5 of the Limitation Act with a prayer to condone the delay of 165 days

in preferring the present appeal.

In view of the reasons for the delay in preferring the appeal and the submissions made in support thereof, the delay is condoned.

I A No.524 of 2015 stands disposed of.

LPA No. 117 of 2015

The respondents in CWJC No. 4316 of 2008 preferred this Letters Patent Appeal, feeling aggrieved by the judgment dated 16.6.2014 rendered therein by the learned Single Judge.

The 1st respondent herein joined the CRPF in the year 1988 at Mokama, Patna, as a Constable. In the year 2007, while he was working as Havildar (Driver) attached to the Inspector General of Police, BS, CRPF, Patna, Bihar, a charge-sheet dated 6.5.2005 was issued to him, alleging that he received certain amount from one Manoj Prasad with a promise to arrange for employment in the CRPF. On receipt of the charge-sheet, the respondent submitted his explanation denying the charges. The Disciplinary Authority appointed an enquiry officer. On the basis of the report submitted by him, the Disciplinary Authority imposed punishment of dismissal from service through order dated 30.10.2006. The appeal preferred against that order was dismissed by the Deputy Inspector General of Police, CRPF on 11.7.2007. Revision was also dismissed on 10.12.2007. Therefore, the respondent filed the writ petition.

It was pleaded in the writ petition that the departmental proceedings were conducted in breach of prescribed procedure and in violation of the principles of natural justice and though the same was pointed out, the Disciplinary Authority did not take that objection into account and imposed the punishment. It was also submitted that not a single witness was examined on behalf of the department, much less

any presenting officer was appointed and though the report was submitted on 15.10.2005, the enquiry officer re-opened the matter and submitted another report on 11.9.2006 holding that the charges were proved.

The appellants filed counter affidavit opposing the writ petition. They pleaded that in the departmental enquiry, some of the witnesses did not stick to their earlier statement made in the preliminary enquiry and for that reason the enquiry officer proceeded to examine the actual complainant. It was also stated that the procedure prescribed under rule-27(c) of the Central Reserve Police Force Rules was followed and no irregularity has crept into the proceedings.

The learned Single Judge allowed the writ petition and awarded costs of Rs.10,000/-. The order of dismissal was set aside and directions were issued for reinstatement of the respondent as well as the payment of consequential benefits.

Hence, this appeal.

Heard Sri Satyavrat Verma, learned counsel for the appellants and Sri Prakash Shrivastava, learned counsel representing the 1st respondent.

This is a typical case in which several irregularities of serious nature are noticed in the departmental proceedings. The allegation against the respondent was that he received some amount from one Manoj Prasad with a promise to secure employment in the CRPF. Once a charge was framed, it was the duty of the department to examine the witnesses, be it the complainant or the officers who dealt with the matter. However, for reasons best known to him, the Disciplinary Authority did not examine any witness whatever. Added to that, no presenting officer was appointed. The only persons

examined in the course of disciplinary enquiry are those, named by the respondent in support of his contention. Naturally those witnesses did not support the case of the department.

The learned Single Judge has taken the trouble of summoning the entire records and perusing the same. It became evident that the enquiry officer submitted a report on 15.10.2005. However, that was not available. Thereafter, on the direction issued by the Disciplinary Authority, the enquiry officer has virtually commenced the proceedings afresh. He had proceeded to the native place of the complainant Sri Manoj Prasad. That person is said to have pleaded ignorance of the entire episode. However, Manoj Prasad and his father were brought to the nearby police station and statement was recorded from them. The records further disclosed that the enquiry officer stayed overnight in the police station, when the statement is said to have been recorded from those two persons in the police station. A representation was made by the two persons, to the effect that their statement was recorded under coercion. All these factors were ignored and the report was submitted on 11.9.2006 holding that the charges were proved.

We are conscious of the fact that the Courts would be slow to interfere with the departmental proceedings pertaining to the members of the Para-Military Forces. At the same time, the Courts expect the authorities of such Forces to meticulously follow the procedure. If the Court is satisfied that prescribed procedure is followed it would be loath to examine the facts and virtually leaves the decision to the authorities.

As mentioned in the preceding paragraphs, every norm and principle pertaining to the departmental proceedings was observed in breach in the instant case. Firstly, the Disciplinary

Authority did not examine any witness, much less it appointed the presenting officer. Secondly, though the report was submitted on 15.10.2005, no steps were taken thereon and the matter was re-opened. Thirdly, the enquiry officer has gone to the extent of travelling to the interior place to locate the so-called complainant. Added to that, though the said complainant disassociated himself from the episode, he was forced to sign the statement in the police station. Unfortunately, the enquiry officer based his findings only on the statement recorded in the police station, despite the fact that the concerned persons addressed a letter stating that it was recorded from them, under coercion. When irregularities of this nature are galore, the question of sustaining the order of punishment does not arise.

We, therefore, dismiss the appeal. However, we delete that part of the order through which the learned Single Judge imposed the cost.

There shall be no order as to costs.

All Interlocutory Applications shall stand disposed of.

(L. Narasimha Reddy,CJ)

(Anjana Mishra, J)

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