

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1565 of 2012

IN

Civil Writ Jurisdiction Case No. 6106 of 2012

Gyanendra Singh Son of Sri Mahendra Singh Resident of Village -
Lutapur, Police Station - Makhi, District - Unnao (Uttar Pradesh).

.... Appellant

Versus

1. The Union of India Through The Ministry of Home Affairs
(Sashastra Seema Bal In Short S.S.B.)

2. The Director General of Police, S.S.B. Ministry of Home Affairs,
New Delhi

3. The Inspector General, Frontier Head Quarter, S.S.B. Patna,
Rukanpura, Baily Road, Patna, Bihar

4. The Deputy Inspector General, Frontier Head Quarter, S.S.B. Patna,
Rukanpura, Baily Road, Patna, Bihar

5. The Deputy Inspector General, State Head Quarter, S.S.B.
Muzaffarpur, Near Modern Agro Building, Chakkar Maidan,
Muzaffarpur, Bihar

6. Commandant, 13th BN, S.S.B, Pipra Kothi, District - East
Champaran, Bihar

.... Respondents

Appearance :

For the Appellant/s : Mr. SATISH CHANDRA JHA-3

For the Respondent/s : Mr. SHIV KUMAR

CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 08-12-2015

This Intra-Court Appeal is by the writ petitioner
who was dismissed from the Sashastra Seema Bal. The
authorities finding his explanation of unauthorized absence
being unsatisfactory in a proceeding purported to be Rule 26
of the Sashastra Seema Bal Rules, 2009 framed under the



Sashastra Seema Bal (in short the S.S.B.) Act, 2007 have dismissed from service. The authorities as well as the learned Single Judge could not be persuading him to accept the explanations. In appeal before us, hyper technicalities have been raised. We are not inclined to go into the same as unauthorized absence is not disputed what is being sought is an explanation which no one has accepted.

In that view of the matter, we are not inclined to interfere in the matter especially considering that this is a matter of uniform forces where discipline is primary.

However, as we have noticed that the proceedings were in relation to Rule 26 of the Rules in terms of Rule 26(2) as quoted hereunder:

“26.(2) After considering the explanation, if any, the Commanding Officer not below the rank of Commandant, may call upon the enrolled person to retire or resign and on his refusing to do so, the enrolled person may be compulsorily retired or discharged from the service.”

There is no option of dismissal from service. The options are that the person may be asked to seek retirement or resign and on refusing to do so, compulsory retirement or discharge from service. This is substantially different from

what has been done. Dismissal from service entails liability for all types in respect of all government servants which is not carrying in respect of retirement or discharge. While not interfering on the merits of the issue, so far as this aspect is concerned, we would remand the matter to the authorities to consider it afresh and pass orders instead of dismissal.

With this limited observation, this appeal is disposed of.

(Navaniti Prasad Singh, J)

(Anjana Mishra, J)

Rajeev/-

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