

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT APPEAL NO. 325 OF 2015

Trilok Chand Sahu S/o Late Shri Makhan Lal Sahu, aged about 33 years, Occupation : Ex-Serviceman (Constable), R/o Village Talegori, Tahsil Lormi, Distt. Bilaspur (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, through the Secretary, Home Department, Mahanadi Bhawan, Mantralaya, Naya Raipur (C.G.)
2. Inspector General of Police, Raipur, Distt. Raipur (C.G.)
3. Director General of Police, Bastar Zone, Lalbagh Jagdalpur, Lalbagh, Distt. Jagdalpur (C.G.) Pin Code 494 901.
4. Superintendent of Police, Jagdalpur, Distt. Jagdalpur (C.G.)

... Respondents

WRIT APPEAL NO. 327 OF 2015

Laxminarayan Patel S/o Shri Padum Lal Patel, aged about 31 years, Occupation : Ex-Serviceman (Constable), R/o Village Sonbhatha, Post Khatti, PS Bagbahara, Distt. Mahasamund (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, through the Secretary, Home Department, Mahanadi Bhawan, Mantralaya, Naya Raipur (C.G.)
2. Inspector General of Police, Raipur, Distt. Raipur (C.G.)
3. Director General of Police, Bastar Zone, Lalbagh Jagdalpur, Lalbagh, Distt. Jagdalpur (C.G.) Pin Code 494 901.
4. Superintendent of Police, Jagdalpur, Distt. Jagdalpur (C.G.)

... Respondents

WRIT APPEAL NO. 330 OF 2015

Teerath Das Burman S/o Shri Chaitram Burman, aged about 34 years, Occupation: Ex-Serviceman (Constable), R/o Village Sukhari, Post Matwari Tahsil Gunderdehi, Distt. Durg (C.G.)

... Appellant

Versus

1. State of Chhattisgarh, through the Secretary, Home Department, Mahanadi Bhawan, Mantralaya, Naya Raipur (C.G.)
2. Inspector General of Police, Raipur, Distt. Raipur (C.G.)
3. Director General of Police Bastar Zone, Lalbagh Jagdalpur, Lalbagh, Distt. Jagdalpur (C.G.) Pin Code 494 901.
4. Superintendent of Police, Jagdalpur, Distt. Jagdalpur (C.G.)

... Respondents

For Appellants	: Dr. N.K. Shukla, Senior Advocate, along with Mr. Aditya Tiwari, Advocate.
For Respondent-State	: Mr. B. Gopa Kumar, Dy. Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per NAVIN SINHA, C.J.

15/07/2015

1. The present Appeals arise from a common order dated 15.5.2015 dismissing Writ Petition (S) nos. 5902 of 2010, 620 of 2011 and 5905 of 2010. Since the facts and the questions arising for consideration in all the Appeals are common arising from a common order of the learned Single Judge, they are being disposed by a common order.

2. Learned Single Judge held that the order of the Superintendent of Police, the appellate order and the order of the Director General of Police on the mercy petition, upholding removal from service of the recruit constables during probation for unauthorised absence, concluding that they would not make satisfactory police officers, called for no interference.

3. Learned Senior Counsel Dr. N.K. Shukla, appearing on behalf of the Appellants, submits that the learned Single Judge committed an error of record in holding at paragraph 13 that there was no material before him with regard to the fact that in similar circumstances for unauthorised absence, a lesser punishment had been imposed. He refers to Annexure P-10, dated 15.3.2010 and the orders with regard to certain other similarly situated as also the orders of the Director General

of Police dated 31.1.2014 at Annexures P-15, P-16 and P-17, to submit that in similar circumstances lesser punishment has been imposed for unauthorised absence causing hostile discrimination between persons similarly situated.

4. Dr. Shukla, submits that in the circumstances the Appellants would be satisfied if the appeal is disposed with the direction and liberty to represent before the Director General of Police relying on the orders as aforesaid imposing lesser punishment on recruit constables on probation for unauthorised absence.

5. We have heard Counsel for the State also on the limited issue.

6. The order under appeal does not reflect that the attention of Learned Single Judge was invited to Annexures P-15, P-16 and P-17 with regard to the persons similarly situated leading him to hold that sufficient materials with regard to discrimination had not been placed before him.

7. The appeal is disposed with liberty to the Appellants to represent before the Director General of Police with regard to the plea of discrimination which is required to be considered in accordance with law without being prejudiced by any observation made by the Learned Single Judge.

8. Let such fresh appropriate orders be passed within a maximum period of four weeks from the date of receipt and/or presentation of representation along with a copy of the present order before the Director General of Police.

9. The Appeals are disposed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge