

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1790 of 2012

IN

Civil Writ Jurisdiction Case No. 10288 of 2010

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1. The State Of Bihar , through The Secretary, Home Department (Police , Government Of Bihar) New Secretariat, Patna
 2. The Director General Of Police, Bihar, Patna
 3. The D.I.G., Rail Police, Patna
 4. The Superintendent Rail Police, Muzaffarpur
 5. The Deputy Superintendent Rail Police, Sonapur, District Vaishali

.... Appellant/s

Versus

1. Dhananjay Kumar Singh Son Of Sri Vyas Narayan Singh Resident Of Village Fatehpur, P.S. Raghopur, District Vaishali

.... Respondent/s

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Appearance :

For the Appellant/s : Mr.Amaresh Kumar Sinha, Advocate,A.C. to G.A.9

For the Respondent/s : M/s.Basant Kumar Choudhary, Senior Advocate,Sabal Kumar Jha & Vivek Kumar Jha,Advocates.

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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: 29-03-2016

We have heard learned counsel for the State-Appellant and Sri Basant Kumar Choudhary, learned senior counsel appearing for the contesting writ petitioner-respondent.

2.This intra-Court Appeal has been filed by the State, being aggrieved and dissatisfied with part of the judgment of the learned Single Judge passed in C.W.J.C.No.10288 of 2010 dated 11-5-2011(Dhananjay Kumar Singh Vs. State of Bihar and others). With consent of parties the Appeal was heard for final disposal at this stage

itself.

3.The writ petitioner-respondent had filed the writ petition, challenging the order of his dismissal from service, being order dated 2-11-2005, which was not interfered in Appeal or at the stage of Memorial of Appeal. The learned Single Judge having gone into the materials on record held that the writ petitioner-respondent was rightly held guilty in the disciplinary proceeding of grave misconduct. The allegation was that the writ petitioner, being Constable in the G.R.P. attached to Railway P.S. Chapra, got into a Train and started extorting money from the passengers. The passengers raised hue and cry. The Train was detained and he was detained by the G.R.P. at Sonapur Station. Statements of passengers were recorded and ultimately the Enquiry Officer having found the allegations true, submitted his report to the Disciplinary Officer, who, after hearing the writ petitioner, passed the extreme punishment of dismissal. As noted above, the writ petitioner did not get any relief from the appellate authority or from the Memorial filed thereafter. The learned Single Judge did not find fault in the findings or in the procedure, but notwithstanding interfered in respect of punishment, holding that considering the hardship, which the writ petitioner-respondent and his family would have to undergo as a consequence of this extreme punishment, the order of punishment was set aside with certain

observations .It is this part against which State has appealed and rightly so, in our view.

4. In judicial review this Court does not sit in appeal over the decision of the departmental authorities. It only looks into the facts whether procedural requirements have been met. The only exception in interference, notwithstanding the procedural requirements having been met, is when the punishment is grossly disproportionate to the delinquency and is consequently shocking to the conscience of the Court. Such cases are rare.

5. When we look to the facts of the present case, the delinquency is grave. An Officer of Uniformed Service(Constable) gets into a running Train and starts extorting money from the passengers and is apprehended there itself. If such behaviour of the Uniformed Officer should not lead to his dismissal, then the entire discipline, and the very purpose of having a police force would vanish. If those who are to protect the citizens, themselves behave in such a manner, then to say that the extreme punishment of dismissal is disproportionate. would itself be a travesty of justice.

6. We are, thus, constrained to hold that the learned Single Judge was clearly in error in law in interfering in the matter. We, therefore, set aside that part of the judgment of the learned Single Judge where he has interfered with the quantum of punishment, and

restore the orders of the departmental authorities. This Appeal is consequently allowed.

(Navaniti Prasad Singh, J)

B.K.Roy/-

AFR

(Nilu Agrawal, J)

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