

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16506 of 2007

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Ram Naresh Bhagat, son of Late Jai Lal Bhagat, resident of village-Jataulia, Muja Tola, Narwara, P.S.- Deoria, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The Union of India, through the Ministry of Homes, New Delhi.
2. The Secretary, the Ministry of Homes, New Delhi.
3. The Inspector General, Central Reserve Police Force, Gomati Nagar, Lucknow.
4. The Deputy Inspector General, Central Reserve Police Force, Allahabad.
5. The Commandant, 72, Central Reserve Police Force, Old Court Campus, Chas, Bokaro.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate

For the Respondent/s : Mr. Anjani Kumar Sharan, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 28-07-2016

Heard Mr. Krishna Kant Singh, learned counsel appearing for the petitioner and Mr. Anjani Kumar Sharan, learned Central Government Counsel for the respondents.

With the consent of the parties this writ petition has been heard and is being disposed of by this judgment at the stage of admission itself.

The petitioner is aggrieved by the order dated 2.8.2005 issued under the signature of the respondent no.5-Commandant, 72, Central Reserve Police Force (CRPF), Old Court Campus, Chas, Bokaro in the State of Jharkhand, whereby the petitioner has been dismissed from his service, a copy of such order is impugned at Annexure-11 to the writ petition.



The petitioner also questions the order dated 18.11.2005 passed by the respondent no.4-Deputy Inspector General, CRPF, Allahabad whereby the appeal has been dismissed and which has been impugned at Annexure-13 to the writ petition. The petitioner preferred a revision before the Director General, CRPF and which according to the petitioner has since been rejected but according to the respondents no such revision has been filed.

Be that as it may, this Court would proceed to consider the matter on merits, on the basis of the materials on record considering that the writ petition has remained pending since the year 2007.

It is under the orders of this Court that the records of the proceedings have been produced by Mr. Sharan, learned Central Government Counsel, for the respondents. The chargesheet on record imputes the petitioner on two counts i.e. of having remained absent for 142 days with effect from 9.8.2004 until 28.12.2004 and secondly of disobedience of the orders passed by the superiors in not responding to the letters asking explanation against his absence and to join duty. The charge-memo required the petitioner to report to the Enquiry Officer but the petitioner neither reported to the Enquiry Officer nor responded to the letters issued by the Enquiry Officer and absconded from the proceedings. The enquiry was held



ex parte and in the circumstances existing where the petitioner absented himself from the proceedings, the charges stood proved resulting in the order of dismissal. In my opinion the petitioner has neither any case on merits nor on the technicality that no show cause against the proposed penalty was served on the petitioner.

Mr. Sharan, learned Central Government Counsel has invited the attention of this Court to the returned envelope containing the refusal of the petitioner which forms a part of the records of the departmental proceedings and contained a second show cause along with enquiry report. Thus even on the issue of adherence to the procedural requirements, the case suffers no infirmity and it is the petitioner to be blamed.

The petitioner was a member of the uniformed service and had to maintain utmost discipline. The very fact that the petitioner initially absented himself for 142 days leading to the enquiry and even the return was short for he again went absconding, in my opinion, it is the petitioner alone, who is to be blamed. There cannot be a better example of indiscipline and willful disobedience. The copy of the charge memo having been served on the petitioner no amount of explanation can justify his absence from the departmental proceedings.

A feeble attempt was made by Mr. Singh, learned counsel

appearing for the petitioner to show that the petitioner participated in the proceedings since he gave his response but in my opinion this was only an initial action of the petitioner. The statement made by the respondents in paragraph-5 and 6 of the counter affidavit explaining the absconding habit of the petitioner practically stands admitted by the petitioner on excuse of illness in his rejoinder and which alone confirms the charge and his act of avoiding the disciplinary proceeding.

In the circumstances, taken note of, dismissal was the only punishment for the petitioner and which does not call for any indulgence.

The writ petition is dismissed.

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(Jyoti Saran, J)

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