

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.748 of 2009

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Rana Monohar Kumar Singh, son of Late Deoki Singh, resident of village-
Chandpura Nanhka, P.O. Nanhka, District-Vaishali

.... Petitioner/s

Versus

1. The Union of India through the Director General C.I.S.F. (Central Industrial Security Force), 13, C.G.O. Complex, Lodhi Road, New Delhi
2. The Inspector General, C.I.S.F. (EZ) Head Quarter Patna, New Patliputra Colony, Patna-13
3. The Deputy Inspector General, C.I.S.F. (EZ) Head Quarter at Patna, New Patliputra Colony, Patna-13
4. The Group Commandant C.I.S.F. Group, C.I.S.F. Office Campus, Boring Road, Patna, New Patliputra Colony, Patna-13
5. The Deputy Commandant, C.I.S.F. Unit I.O.C. (Indian Oil Corporation) Barauni, P.O. Barauni Refinery, District-Begusarai (Bihar)

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. SATISH CHANDRA MISHRA
Mr. Sudama Pandey

For the Respondent/s : Mr. Kumar Priya Ranjan, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 21-11-2016

Heard Mr. Satish Chandra Mishra, learned counsel
appearing for the petitioner and Mr. Kumar Priya Ranjan, learned
Central Government Counsel appearing for the Central Industrial
Security Force.

Though the petitioner had filed this writ petition to question
the order dated 17.10.2003 passed by the Group Commandant, the
respondent no. 4 impugned at Annexure-7 whereby an order of
penalty of reduction of pay-scale to a lower stage for a period of two
years with cumulative effect had been passed but while the writ



petition was pending consideration that the statutory appeal preferred by the petitioner before the Deputy Inspector General has been disposed of vide order dated 19.3.2009 and whereby the Deputy Inspector General after issuing show cause notice to the petitioner has enhanced the penalty, insofar as its duration is concerned which now stands extended from two years to three years. A copy of such order passed by the appellate authority has been placed on record vide Annexure-8 to I.A. No. 3102 of 2009 filed on 11.5.2009 and the petitioner seeks permission of this Court to question the said appellate order passed during the pendency of the writ petition.

Although a counter affidavit is on record in response to the issue raised in the writ petition as well as to the interlocutory application but when the matter is taken up for consideration Mr. Kumar Priya Ranjan, learned Central Government Counsel in reference to the provisions underlying Rule 46 of the Central Industrial Security Force Rules, 2001 framed under Section 22 of the Central Industrial Security Force Act, 1968 has submitted that the provisions underlying Rule 46(3) provides an appeal against the order of the Deputy Inspector General which would lie before the Inspector General Headquarters in terms of the provisions underlying Rule 46(2)(ii), Mr. Kumar Priya Ranjan without entering into the merit of the case submits that in view of the statutory remedy so available to the petitioner, he would be required to exhaust the same before approaching this Court.

Having heard learned counsel for the parties and considering that the Appellate order passed by the Deputy Inspector General enhancing the punishment, is appealable before the Inspector General in view of the provisions underlying Rule 46(3) read along with Rule 46(2)(ii) and considering that the appellate order was passed during the pendency of the writ petition, this Court without expressing any opinion on the merits of the contest, deems it fit and proper to dispose of the writ petition giving liberty to the petitioner to exhaust the appellate remedy so available to him under ‘the Rules’ and it goes without saying that in case any such appeal is filed by the petitioner within 30 days from today and is accompanied with a petition for condonation of delay, the appellate authority i.e. the Inspector General (Headquarters) would consider and dispose of the appeal in accordance with law expeditiously and preferably within three months from the date of receipt /production of a copy of the order with opportunity of hearing to the petitioner.

(Jyoti Saran, J)

S.Sb/-

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