

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3840 of 2008

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Ex.-HC Chet Ram son of Sri R.P.Yadav, resident of Village & P.O. Bhotwar Ahir, District Rewari (Haryana)

.... Petitioners

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, North Block, New Delhi
 2. The Director General (HQ) CISF, CGO Complex, Lodhi Road, New Delhi
 3. The Deputy Inspector General, CISF, Eastern Zone, Headquarter, CISF, Officer Complex, Boring Road, Patliputra, Patna (Bihar)
 4. The Assistant Commandant, CISF, F.C.I. Unit, Digha Ghat, Patna (Bihar)

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Mohan Kumar Singh

For the Respondent/s : Mr. Kumar Priya Ranjan

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

17 05-01-2016 Heard learned counsel for the petitioner and Mr. Kumar Priya Ranjan, learned counsel appearing for the Union of India.

The petitioner was an ex-Head Constable Driver of the Central Industrial Security Force (CISF). He seeks quashing of order of dismissal from service, dated 18.7.2001 (Annexure-2), Appellate Order, dated 27.3.2002 (Annexure-3), order dated 21.1.2003 (Annexure-4) and order dated 28.3.2003 (Annexure-4) passed by the superior authorities.

The petitioner was proceeded departmentally for his alleged act of misconduct while he was posted as ex-Head Constable Driver at CISF Unit in Gaya. A copy of charge memo dated 26.9.2000 is at Annexure-1 to the writ petition. The allegation was



that on 18.8.2000 at 9.15 PM he abused Incharge Officer and other officials in the state of intoxication. He was also charged for banging the family house of one of the officials by his legs. In course of inquiry, the petitioner sought for some documents, which according to the respondents was duly supplied vide letter No.1206 dated 21.10.2000. The petitioner submitted his reply to the charge on 2.11.2000 denying the charges. One Shri S.K. Mishra, Inspector, CISF, Phulwarisharif Unit was appointed as an Inquiry Officer to conduct the departmental enquiry vide letter dated 27/29.11.2000. On 12.2.2001, the petitioner appeared before the Inquiry Officer for preliminary hearing, in course of which he requested for leave to bring consent letter from members of the Force for assisting him during the enquiry. The Inquiry Officer granted ten days time for bringing the consent letter. The next date in the inquiry was 28.2.2001. The charged official did not intimate the name of assistance nor did he submit the consent letter and the matter was again adjourned to 8.3.2001. On 8.3.2001, the charged official did not turn up for enquiry and the matter was adjourned to 14.3.2001. On 14.3.2001, a notice was issued to the delinquent Chet Ram fixing the enquiry on day to day basis w.e.f. 26.3.2001. On 24.3.2001, acknowledgement copy of enquiry notice served through registered letter on his home address, was received. On 26.3.2001, the charged official appeared and one witness was



examined. On 27.3.2001 two more witnesses were examined and thereafter the proceeding also took place on 28.3.2001 and 29.3.2001. After conclusion of the inquiry report, the finding of guilt was recorded by the Inquiry officer. A copy of the enquiry report was forwarded to the petitioner by the disciplinary authority for his response. The petitioner submitted his second show cause in support of his case. The disciplinary authority not being satisfied with the explanation, awarded sentence of dismissal. An appeal and revision filed by the petitioner too was dismissed.

The petitioner challenged the impugned proceeding on the ground that he did not get reasonable opportunity to place his case before the Inquiry Officer. The petitioner submits that rule 8(a) of the Central Industrial Security Force Rules, 2001 permits the enrolled member of the Force so charged to present his case with the assistance of any other member of the Force posted at the place of inquiry. The delinquent will give three choices for his defence assistance and the controlling officer will depute anyone of the three indicated by him.

The petitioner's case is that he was unable to take benefit of section 8(a) of the Rules as he was not granted leave despite his application to obtain consent from such members of the Force who was willing to assist him in the departmental enquiry.

Counsel for the Union submits that ten days time was



granted to the petitioner to produce such consent letter but the petitioner neither submitted any name nor brought any consent letter even till 28.2.2001. On the other hand, the petitioner submits that there is no specific order granting him leave to produce consent letter. Learned counsel in reply submits that grant of ten days time to bring consent letter amounts to ten days leave in the facts of the case.

The petitioner alternatively argued that he has unblemished service career and has received various medals in his career including Grand Police Medal and D.G. Medal. This was first solitary act of alleged misconduct in 22 years of his unblemished service career and as such even assuming the prosecution case to be true, the punishment of dismissal was harsh and excessive.

The first contention of the petitioner that he was not granted leave to bring consent letter or to give names of members of the force, who could assist him in the proceeding, is devoid of substance. The petitioner was granted ten days time for the same which cannot be said to be unreasonable. The petitioner could have given probable names within ten days which he did not choose to do so, and as such the proceeding cannot be held to have vitiated on the ground that he could not represent his case with due assistance of any of the members of the Force as provided in rule 8(a) of the Rules. As such, I do not find any infirmity in the

departmental proceeding to interfere in the matter.

The petitioner had also argued that in any view of the matter, the quantum of punishment was harsh and excessive. In support of his contention, he relied upon a decision of this Court in the case of *Anil Kumar Singh v. State of Bihar, reported in 2011(4) PLJR925*. The petitioner thereof was awarded punishment of dismissal for charge of consuming liquor in non-duty hours and creating commotion in the night. In the said case, the learned Single Judge noticing that this case was solitary incident of misconduct in the entire service career of the delinquent set aside the order of dismissal. The petitioner has also relied upon a decision in the case of *Ex. Ct. Ranvir Singh v. The Union of India & Ors, reported in 2010(4) PLJR 800*, in which too the order of dismissal awarded on charge of misbehaviour with superior authority, was interfered with. The petitioner thus submits that as this case was the only case of misconduct in his entire service career, any other punishment other than dismissal from service, ought to have been considered.

Counsel for the Union submits that the act of misconduct of a member of para-military force cannot be evaluated on the same parameter as in the case of civilians. He submits that the decision of *Anil Kumar Singh (supra)* was a case of a person, who was holding the civilian post. He submits that in the case of *Ex. Ct.*

Ranvir Singh (supra), the petitioner was charged with misbehaviour with his superior and he was not charged with allegation of intoxication or of banging the residential house in the night with legs.

I may broadly agree with the submissions of learned counsel appearing for the Union of India that the misconduct in case of para-military force cannot be evaluated on the same parameter as in the case of civilians, as the security risk is higher in case of members of such force. However, I find that the petitioner had an unblemished past with some medals including D.G. Medal to his credit. The offence for which he was charged was his only case of misconduct. In such situation without interfering with the impugned order of punishment, I would grant one opportunity to the petitioner to place his case before the Director General (HQ) CISF, CGO Complex, Lodhi Road, New Delhi (Respondent No.2) for his due consideration. It is made clear that this Court has not expressed any opinion on the quantum of sentence.

With the aforesaid liberty, this writ application stands disposed of.

(Samarendra Pratap Singh, J)

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