

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.34 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 666 of 2013

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Om Prakash Sah, Son of Late Jawahar Prasad Sah, Resident of Village- Barahiya
Mubarakpur, P.O.- Mubarakpur, Via- Ekama, P.S.- Manjhi, Dist- Saran

.... Appellant

Versus

1. The State of Bihar, through the Chief Secretary, Government of Bihar, Patna
2. The Director General Home Guard (Wrongly typed as General) Chhajubagh, Patna
3. The Inspector General, Bihar Home Guard, Chhajubagh, Patna
4. The Divisional Commandant, Home Guard, Bihar, Chhajubagh, Patna
5. The District Commandant Home Guard, Ara- Bhojpur
6. The District Commandant Home Guard, Chapra

.... Respondents

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Appearance :

For the Appellant : Mr. A.K. Pandey, Advocate.

Mr. S.S. Tiwary, Advocate.

For the State : Mr. M. Kumar, A.C. to G.A. 11

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 01-04-2016

Heard learned counsel for the appellant and the respondents.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 18th of March, 2013 in C.W.J.C. No. 666 of 2013, whereby an order of stoppage of one increment was not interfered with.

3. The appellant was inflicted punishment of stoppage of one increment without cumulative effect on 26th of August, 2011. Such order was affirmed by the appellate authority on 23rd of November, 2011 as well. The said orders were challenged by the appellant in the writ application, which stands dismissed. The present appeal arises out of the order passed by the Learned Single Judge.

4. The only argument raised by learned counsel for the appellant before the learned Single Bench as also before this Bench is that the complainant was not examined in the departmental proceeding. Therefore, there cannot be any finding of misconduct against the appellant.

5. The learned Single Bench has examined such argument and found that Sri Ranjit Kumar Sinha, the Divisional Commandant as also Md. Nazirul Haque, the District Commandant and one Dinbandhu Mishra, the Incharge of the Complaint Redressal Cell were examined by the Enquiry Officer. These witnesses were named with the designation in the memo of charge. Therefore, the learned Single Bench found that if the appellant wanted to examine the complainant Yogendra Prasad, it was for him to file an application before the Enquiry Officer. Thus, no infirmity was found in the order of punishment.

6. The Supreme Court in State of Haryana and Anr. vs Rattan Singh AIR 1977 SC 1512 has held that in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence, provided it has reasonable nexus and credibility.

7. In view thereof, mere non-examination of the complainant is inconsequential, as the department has proved the charges by producing three relevant witnesses.

8. We do not find any error in the order passed by the learned Single Bench which may warrant interference in the present intra court appeal.

9. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Sujit
N.A.F.R.

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