

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No 1664 of 2012
IN
Civil Writ Jurisdiction Case No 16549 of 2011

=====

Dhanushdhari Prasad Yadav S/O Late Jageshwar Pd. Yadav R/O Village- Kanaudi,
P.S. Wazirganj, District- Gaya

.... Appellant/s

Versus

1. The State Of Bihar through Home Secretary Govt. Of Bihar, Patna
2. The Director General of Prison, Govt. Of Bihar, Patna
3. The Superintendent of Sub-Divisional Jail, Aurangabad
4. The Superintendent of Sub-Divisional Jail, Nawada
5. The Superintendent of Central Jail, Gaya

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr Raj Bansh Dubey, Advocate

For the State : Mr Anil Kr Upadhyay, SC20

=====

CORAM: HON'BLE MR JUSTICE HEMANT GUPTA
&
HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE HEMANT GUPTA)

Date: 23-02-2016

The present Letters Patent Appeal is directed against an order passed by the learned Single Judge on 16.11.2011 whereby the writ petition challenging punishment imposed upon the appellant, inter alia, of not promoting him for five years and reduction to the basic pay scale etc remained unsuccessful.

2 The appellant was chargesheeted on 24th of September , 1998, inter alia, on the ground that he has failed to do his duty in the Hospital Ward of the Jail which led to escape of two inmates. After

considering the reply filed and enquiry conducted, an order of punishment was passed on 17th of January, 2001 of not granting promotion to the appellant for a period of 10 years and reverting him to his basic pay scale. The appeal against the said order was dismissed on 02nd of March, 2007. The appellant challenged the imposition of penalty by way of a writ petition being CWJC No 1848 of 2010. The said writ petition was disposed of with the direction to the respondents to consider the representation, if any, to be submitted by the appellant regarding the quantum of punishment. The relevant extract reads as under:

“The charge was that two prisoners escaped when the petitioner was on duty as the Warder in the Jail. If he acknowledges that their escape took place during his duty hours, the charge has been admitted. If the charge stands admitted, all alleged procedural lapses, if any, in the departmental proceeding automatically lose their relevance. The petitioner cannot absolve himself of the liability if the escape took place during his duty hours and the explanation given by him has not been found acceptable. This Court cannot act as an appellate authority to sit over the view of the enquiry officer and substitute its own view only because another view may be possible on the same facts.

... ..

This Court had held that the charge has been admitted by the petitioner. The quantum of punishment is the jurisdiction of the employer normally. This Court is not satisfied that the nature of punishment imposed calls for interference by this Court on the aspect of quantum. If the petitioner represents with regard to the quantum of punishment and seeks to rely upon any findings during the enquiry that is a matter to be considered appropriately by the

disciplinary authority itself.”

3 It is, thereafter, on representation submitted by the petitioner, the punishment was reduced vide order dated 30th of December, 2010. The writ petition was directed against an order passed on 30th of December, 2010 by which the impugned order has not been interfered with by the learned Single Judge.

4 The misconduct was not interfered by the learned Single Judge in the earlier writ petition. The appellant cannot be permitted to dispute the proved misconduct in the present writ petition which is only directed against the order of punishment imposed on 30th of December, 2010. The allegation against the appellant is of escape of two inmates from the Hospital Ward of the Jail.

5 In view of the proved misconduct, the quantum of punishment imposed is not exceptionally unreasonable which may warrant interference in exercise of judicial review on the Wednesbury principles of reasonableness.

6 We do not find any illegality in the order which may warrant interference in the appeal. The appeal is dismissed.

(Hemant Gupta, J)

M.E.H./-

(Navaniti Prasad Singh, J)

U			
---	--	--	--