

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1583 of 2016

In
Civil Writ Jurisdiction Case No.7076 of 1998

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1. The Union of India through Director General of Central Reserve Police Force, New Delhi
 2. The Inspector General of Police Central Reserve Police Force, Mokama Ghat District- Patna (Bihar)
 3. The Deputy Inspector General of Police Central Reserve Police Force, Mokama Ghat, District-Police (Bihar)
 4. The Commandant (Headquarter), 81 Battalion, Central Reserve Police Force, Patna, Bihar

... .. Appellant/s

Versus

Shakuntala Devi wife of Late Awadhesh Tiwari Resident of Village-
Hathisarganj, P.S. Hajipur, District- Vaishali

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. S. D. Sanjay Sr. Advocate, ASG, UOI Mr. Anshuman Singh CGC, GOI
For the Respondent/s	:	Mr. Uma Kant Shukla Advocate Mr. Satish Chandra Mishra Advocate Mr. Hari Narain Tripathi Advocate Mr. Ajay Kumar Tiwary Advocate

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 14-12-2017

Heard learned Additional Solicitor General, representing the Union of India. His submission and justification, which has been offered in support of the decision of the Appellate Authorities to dismiss the husband of the private-respondent, does not meet the



parameters and requirements of law, especially jurisprudence, dealing with the departmental enquiry. There is a detailed finding of the Learned Single Judge, both on the facts and the process, which was adopted in coming to a conclusion that a proper disciplinary enquiry was not held against the husband of the private-respondent, which has resulted in imposition of punishment of dismissal.

In fact, we are convinced that the aberration, which has been made by the authorities of the CRPF by smuggling in evidence, procured during the previous enquiry in the de novo enquiry is impermissible in law. Therefore, no amount of effort and justification given by them in their affidavit or during the course of arguments before us can cure the fallacy, which has crept into the decision making process. To that extent, the order of the Learned Single Judge is not required to be interfered with and we are not persuaded that the order requires interference, so far as the decision that the order of dismissal was not legal and proper.

However, one submission made on behalf of Learned Additional Solicitor General that the order of consequential benefit, which has been passed by the Learned Single Judge would be rewarding an 'absconder', despite non-performance of duty by him during the period.



The principle of “no work no pay” will, therefore, kick in and it is clarified that the consequential benefit will not include any payment of past wages and salary for the period the husband of the private-respondent did not perform his duty. So far as family pension etc. is concerned, that will be considered in light of his service record and the length of service.

Appeal stands disposed off with above clarification and modification to the order of the Learned Single Judge.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

skm/-

AFR/NAFR	N.A.F.R.
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