

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 15733 of 2010

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Md. Sadique S/O Late Md. Mohsin Malik R/O Near Town Police Station,
Hajipur, P.S.- Hajipur, Distt.- Vaishali at Hajipur

.... Petitioner

Versus

1. The State of Bihar
2. The Director General-cum-Inspector General of Police, Bihar, Patna
3. The Inspector General, Railway Police, Patna
4. The Deputy Inspector General of Railway Police, Patna
5. The Superintendent of Railway Police, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Jagnnath Singh

For the Respondent/s : Mr. Mrityunjay Kumar, AC to GP 12

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2. 16-05-2017 Heard Sri Jagnnath Singh, learned counsel for the
petitioner and Sri Mrityunjay Kumar, learned A.C. to Govt.
Pleader – 12.

2. The petitioner has approached this Court invoking
its writ jurisdiction under Article 226 of the Constitution of India,
with a prayer to quash an order dated 28-11-1994, as contained in
Memo No. 559 dated 29-11-1994 (**Annexure – 4** to the writ
petition), whereby the petitioner was dismissed from service and it
has further been prayed to re-instate him in the service with full
back-wages.

3. Short fact of the case is that the petitioner long back
in the year 1993 was initially put under-suspension due to



unauthorized absence, however; subsequently on 13-07-1993, his suspension was revoked and he was transferred from Patna to Chaibasa. Even thereafter, the petitioner remained absent and he did not join at the new place and finally, the petitioner was proceeded departmentally and after departmental proceeding, he was dismissed from service.

4. On perusal of **Annexure – 6** to the writ petition i.e. order dated 01-12-1995 passed in C.W.J.C. No. 5252 of 1994, it is evident that order of the dismissal was assailed before this Court, however; this Court did not interfere on the merit of the case. Only liberty was granted to the petitioner to file mercy appeal in respect of quantum of punishment. This order was passed on 01-12-1995 but after about lapse of 10 years, the petitioner again filed another writ petition i.e. C.W.J.C. No. 9144 of 2006 on the plea that his mercy appeal was not disposed of. Again the writ petition was disposed of on 28-10-2009 (**Annexure – 8** to the writ petition), with an observation that if the petitioner had filed any memorial, the Court expects that the Director General of Police, Bihar may dispose of the same expeditiously. Thereafter, again the present writ petition has been filed. Instead of making prayer for disposal of mercy appeal, the petitioner has again assailed the order of his dismissal in paragraph – 1 of the petition.



5. Moreover, the Court is of the opinion that in uniform services, unauthorized absence is treated as 'serious misconduct', which warrants dismissal. Time without number, it has been reiterated that on the question of quantum of punishment, High Court can interfere only if the Court is satisfied that the conscience of the Court was shocked with the punishment.

6. Considering the nature of allegation and order of punishment, I do not find any ground to examine, even the quantum of punishment. Moreover, in the writ petition, the petitioner has again prayed for quashing of order of dismissal, which was already confirmed by this Court long back in the year 1995.

7. Accordingly, the writ petition stands dismissed.

(Rakesh Kumar, J.)

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