

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10857 of 2014

Sanjay Paswan S/o Umesh Paswan R/o Village - Saidpur, P.S. Ghoshi, District - Jehanabad

.... Petitioner/s

Versus

1. The Union of India through Secretary, Ministry of Home Affairs, Govt. of India
2. The Deputy Inspector General, CRPF, Odisha Sector, Bhuvneshwar, Odisha
3. The Inspector General, CRPF, Bhuvneshwar Range, Odisha
4. The Commandant - 127 Battalian, CRPF, Bhuvneshwar Range, Odisha

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Rina Sinha, Advocate
For the Union of India : Mr. Anjani Saran, ASG
: Mr. Ravindra Kumar Sharma, CGC

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 01-12-2017

Heard counsel for the petitioner and counsel for the Union of India.

2. The petitioner who was a constable in the CRPF was transferred from 205 Kobra Batallion to 127 Batallion, Bhajnagar, Bhauvneshwar, Odisha vide order dated 20.08.2011. He did not turn up to the transferred place of posting for 293 days. Upon his report after delay of 293 days, charges were framed against him and the memo of articles/charges along with the articles 1 to 4 and related documents were submitted to him vide memo dated 28.02.2013 but he did not submit any reply. Then a detailed enquiry was set up against the petitioner and a letter dated 14.03.2013, was issued to him to be present on the next date fixed i.e., 16.03.2013. However, on that day



he was present. Then he had taken headquarter leave and did not turn up on the due date. Again a letter dated 18.04.2013, was issued to the petitioner to appear for recording of statements and examination of documents and further for cross-examination but he did not appear. Then the Enquiry Officer, proceeded in the matter and recorded the statement of witnesses ex party and sent the copy of the same to the petitioner to submit his defence by 25.05.2013 but again neither he appeared nor submitted any list of defence witnesses/documents. However, after several attempts to ensure his presence, the petitioner appeared on 18.06.2013 but did not submit any valid reasons for not reporting on given time. All these facts have been mentioned in paragraph 9 of the counter affidavit.

3. It has been submitted by the counsel for the Union of India that after various efforts to ensure the presence of the petitioner to submit any valid reasons and documents for not reporting on due date and after not submitting the same in this regard, the enquiry report was submitted to the disciplinary authority on 27.06.2013 for further course of action. The disciplinary authority vide letter dated 06.07.2013 called for a representation from the petitioner against the report of the Enquiry Officer. The petitioner in response to the same, pleaded guilty and accepted the charges framed against him vide letter dated 07.07.2013. He was thereafter, heard personally by the disciplinary authority and the punishment of dismissal was awarded to



him according to the gravity of charges as he was not a fit person to be retained in the disciplined force which requires a high level of discipline. The petitioner thereafter, filed his appeal before the Deputy Inspector General of Police (for short 'the DIGP'), Range, and CRPF Bhubaneswar. The DIGP after considering the matter rejected the appeal on 22.11.2013 on finding the same being devoid of merit.

4. Thereafter, the petitioner preferred a revision petition before the Inspector General of Police, Odisha Sector, CRPF, Bhubaneswar and after careful consideration of the case filed by the petitioner, the impugned revisional order dated 15.04.2014 has been passed holding the punishment awarded to the petitioner commensurate to the gravity of offence. Various factors have been considered in the revisional order including the absence from the duty for the period of 293 days without giving any information to the authorities concerned and further that the petitioner had taken various stands with regard to his absence from the duty i.e., at one point of time he gave cause of illness and at other point of time pleaded injury in accident as also implication in false criminal case. The conduct of the petitioner is surely unbecoming of a member of the arm forces.

5. Counsel for the petitioner has tried to convince this Court by highlighting the compelling circumstances under which he was absent from the duty for a long period. However, there is not any



single chit of paper to suggest that the petitioner has sent at least any information to his employer explaining the reasons for his long absence from the duty (for 293 days) during his period of absence. Further, the petitioner has not been able to make out any case of procedural lapse in the enquiry conducted against him.

6. This court is of the opinion that the petitioner is not entitled to any relief by this Court exercising jurisdiction under Article 226 of the Constitution as the order is well considered and after following the due process prescribed by law.

7. The writ petition is accordingly, dismissed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	8/7/2017
Transmission Date	

