

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1790 of 2015
IN
Civil Writ Jurisdiction Case No. 8916 of 2015**

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1. Nitesh Kumar Son of Shri Keshri Nandan Sharma, Resident of Village -
Surdaspur, P.O. - Madanganj, P.S. - Ghoshi, District - Jehanabad.

.... Appellant/s

Versus

1. The Union of India through the Home Secretary, Union of India, North Block, New Delhi.
2. The Inspector General, Central Industrial Security Force, Ministry of Home Affairs, Head Quarter, North Zone Saket, New Delhi.
3. The Deputy Inspector General, North Zone, Central Industrial Security Force, Home Affairs, Patliputra, Boring Road, Patna-13.
4. The Group Commandant, Group Head Quarter, Saket New Delhi.
5. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Jagannath Singh
For the Union of India : Mr. S.D.Sanjay, Addl. Sol. General
Mr Anshay Bahadur Mathur, CGC
For the State : Mr Vijay Kumar Verma, AC to GA 2

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 16-02-2017

The delay of 19 days is condoned. I.A. No.8020 of 2015
is allowed. The matter is thereafter heard on merits.

Heard counsel for the appellant as well as learned
Additional Solicitor General representing Union of India.

Appeal has been preferred against the order dated
26.06.2015 passed in CWJC No.8916 of 2015 wherein and whereby



the plea of the petitioner for payment of back wages after reinstatement was rejected.

The facts are that because of initiation of a criminal proceeding and pendency of the criminal proceeding, the appellant, who was initially selected as a Constable in CISF, was removed. Subsequently, on a compromise having been reached between the parties and case coming to an end, the Group Commandant, Group headquarters, New Delhi took a lenient view of the matter and ordered his reinstatement but with principle of no work no pay for the period of his termination till his reinstatement.

The learned Single Judge was of the opinion that the petitioner was lucky enough to get back his reinstatement and employment in the controversial circumstances and a demand of payment of back wages is not supported by any principle of law.

Since the reason for removal of the appellant by the respondents is not attributable to them but because of certain conduct of his, therefore, reinstatement came to be considered by the superior authorities after he came clean, in whatever circumstances it was obtained but payment of back wages is not a right for such kind of employee. These are discretions, which are vested in the Court, and the Courts can in certain cases refuse to pass any order for payment of back wages after reinstatement.



In the given circumstances, it was not one of those cases where termination was illegal but a compassionate kind of view was taken for reinstatement. If that is so then the decision of the respondents to treat the case of no work no pay and the refusal of the learned Single Judge also not to pass any order or direction for payment of back wages cannot be said to be erroneous.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.2.2017
Transmission Date	NA

