

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1612 of 2015

IN

Civil Writ Jurisdiction Case No. 5661 of 2015

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Shovendra Jha Son of Late Shiv Nandan Jha Resident of Village + P.O. - Muraitha,
P.S. - Jhale, District - Darbhanga, At present posted as Constable No. 910810094,
11th Battalion, C.R.P.F. Lathehar, Jharkhand.

.... Petitioner / Appellant

Versus

1. The Union of India through Secretary, Ministry of Home Affairs, Government of India, New Delhi.
2. Director General, Central Reserve Police Force, Block No. 1, CGO Complex, Lodhi Road, New Delhi - 110003.
3. Inspector General, Bihar Sector, Central Reserve Police Force, Patna, Bihar.
4. Deputy Inspector General, Central Reserve Police Force, Sindari, Dhanbad (Jharkhand).

.... Respondents / Respondents.

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Appearance:

For the Appellant/s : Mr. Jitendra Prasad Singh, Advocate.
For the Respondent/s : Mr. Anjani Kumar Sharan, A.S.G.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 25-08-2017

Heard learned counsel for the appellant and learned
Assistant Solicitor General for the Union of India.

2. The Writ Application of the appellant was considered
by the learned Single Judge in detail and he refused to interfere with
the order of punishment of withholding one increment for a period of
three years and non-payment of salary for the period of suspension.
The Writ Application was dismissed because no infirmity was found
by the learned Single Judge either in the process or the procedure



adopted in the departmental proceedings and since the finding with regard to Charge No. 3 was against the petitioner, the punishment in question came to be imposed.

3. This bench is also in agreement with the view taken by the learned Single Judge that once the process of enquiry has been followed and finding of fact has been recorded, it is not open for a court of law under Article 226 of the Constitution of India to sit in judicial review and reappraise the evidence to come to a conclusion.

4. The learned Single Judge also took note of the fact that though the order of revision was rejected on 09.02.2011, the appellant waited till 2015 to assail the order of punishment. Such delay was also not satisfactorily explained but still, despite the above fact, the learned Single Judge bailed the appellant out by observing that the non-duty period of 606 days, for which no salary was required to be paid, will not be treated as a break in service and will be computed for the purpose of calculation of retirement benefits.

5. In a disciplined force which the petitioner has been serving, the aberrations which have been talked about based on the charges, the Court can only opine that he got away very lightly, whatever be the reasons and consideration. The conduct of the appellant was such which could have cost his employment or continuance in the organization as such. He cannot be expected to



behave like a common citizen or holder of a civil post in a government office.

6. No infirmity arises with the impugned order dated 17.04.2015 of the learned Single Judge.

7. Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
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