

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10039 of 2007

=====

Rakesh Kumar, son of Shyam Nandan Singh, resident of Village Sankarpur, P.S. Khizarsarai, District Gaya

.... Petitioner/s

Versus

1. The Union of India through Ministry of Home Affairs, New Delhi
2. The Central Industrial Security Force, Ministry of Home Affairs, Govt. of India through Director General C.I.S.F., New Delhi
3. The Inspector General, C.I.S.F., Eastern Zone, New Patliputra Colony, Patna
4. The Deputy Inspector General, C.I.S.F. Eastern Zone HQRS, New Patliputra, Colony, Patna
5. The Group Commandant, C.I.S.F. Group Head Quarter, New Patliputra Colony, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh Sr. Advocate
Mr. Mukesh Kumar Singh
Mr. Nawal Kishore Singh
For the Union of India : Mr. Anjani Kumar Sharan Asst. SG
Mr. Manoj Kumar (C.G.C)

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 13-11-2017

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

In the present case, petitioner is challenging the order dated 14th April, 2006 passed by the Senior Commandant CISF, Unit Nalco, Damanjodi, District Koraput, Orissa by which he passed the following order “ the pay of No.914492478 Constable Rakesh Kumar of CISF Unit NALCO Damanjodi be reduced by three stages from Rs.3500/- to Rs.3275/- in the time scale of pay for a period of two years with immediate effect. It is further directed that No.914492478 Constables Rakesh Kumar



will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will have the effect of postponing his future increments of pay”.

The aforesaid order has been affirmed by the order dated 19th July, 2006 passed by the Deputy Inspector General, C.I.S.F. Eastern Zone HQRS, New Patliputra Colony, Patna and further the order passed by the competent authority and appellate authority having been affirmed by the order dated 9.11.2006 passed by the Inspector General, C.I.S.F. Eastern Zone, New Patliputra Colony, Patna.

The fact is that the petitioner was posted at Mokama Centre in the State of Bihar. He met with an accident on 31st May, 2001 and he was treated by Dr. John Mukhopadhaya from time to time. The petitioner was transferred from Mokama to CISF Unit NALCO Damanjodi (Orissa) but he refused to receive the order and also did not join the new place of posting. Against the order of transfer the petitioner has filed writ petition vide C.W.J.C. No. 14350 of 2004 where the order was passed to consider the representation and dispose of the same. Representation of the petitioner was considered vide order dated 2.6.2005 (Annexure-12) and rejected the same. The petitioner was served charge-sheet dated 19.8.2005 (Annexure-13) wherein two charges have been levelled; one he has refused to



receive the order of transfer and second refused to appear before the medical board and second charge has been made, he over stayed 479 days thereby he has disobeyed the order of the competent authority. Explanation was submitted by the petitioner dated 1.4.2006 whereafter enquiry was conducted. He was given opportunity to defend himself. The Enquiry Officer submitted enquiry report found both charges have been proved, same was considered by the disciplinary authority passed the order of punishment vide order dated 14.4.2006 (Annexure-1). The same was affirmed vide order dated 19.7.2006 (Annexure-2) and revisional authority has affirmed the same vide order dated 9.11.2006 (Annexure-3).

Learned counsel for the petitioner has argued that petitioner was victim of the circumstances on account of the fact that he met with an accident. He was under the treatment of Dr. John Mukhopadhaya one of the best Doctor in Patna and on that account he failed to join at the new place of posting. The petitioner was ailing on account of injury caused on the vital part of body, he was under active treatment of Dr. John Mukhopadhaya. Had he joined at place he could not have been able to avail the same medical facility as he was getting at Mokama Centre.

Learned counsel for the petitioner tried to project that



petitioner was innocent, he had not committed any misconduct and punishment is unjustified, illegal and not sustainable in law whereas learned counsel for the Union of India has submitted that charges leveled against him are serious in nature, he was given opportunity to defend himself and after proper enquiry the order of punishment has been passed proportionate to the gravity of charges proved against does not warrant interference by this Court.

In the judicial review the Court has very limited jurisdiction as has been adumbrated in the case of B.C. Chaturvedi v. Union of India, reported in AIR 1996, SC 484 with regard to scope of interference in the departmental proceeding. This Court does not find fault with the procedure and quantum of punishment, does not find any reason to interfere in the order of punishment.

Accordingly this writ petition is dismissed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.11.2017
Transmission Date	NA

