

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1115 of 2014

IN

Civil Writ Jurisdiction Case No. 1235 of 2014

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Raj Kumar Roy, Son of Sri Bishwanath Roy, Resident of Village- Koslihara, P.S.-
Tarari, District- Bhojpur

.... Appellant/s

Versus

1. The Union of India through the Ministry of Home Affairs, New Delhi
2. The D.G., C.I.S.F., C.I.S.F. Directorate C.G.O. Complex, Lodi Road, New Delhi
3. The I.G., C.I.S.F., Eastern Zone Boring Road, Patna
4. The D.I.G., C.I.S.F., Eastern Zone, H.Q., Patna
5. The Group Commandant, C.I.S.F, C.I.S.F. Office Campus Boring Road, Patna
6. The Deputy Commandant, C.I.S.F. Unit, KBUNL Kanti, District- Muzaffarpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. S. S. Thakur, Advocate

For the Union of India: Mr. Sanjay Kumar, ASG

Mr. Rajesh Kumar Verma, CGC

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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: 18-04-2017

Heard learned counsel for the parties.

Vide order, dated 17.01.2014, passed in C. W. J. C.

No. 1235 of 2014, the Learned Single Judge has dismissed the writ application and upheld the order of punishment of reduction of pay in the existing pay-scale by two stages for a period of two years as also the order of the appellate authority, who has enhanced the said punishment to reduction by four stages for a period of four years with cumulative effect.

Learned counsel for the appellant makes a submission



on a limited question of law. His submission is that he is not going behind the order of punishment, which was initially imposed by the disciplinary authority, which was for reduction of pay-scale by two stages, but no case for enhancement of punishment by reduction of four stages for a period of four years as such is made out.

No doubt, a person belonging to a disciplined force must control his emotions and outburst, whatever be the circumstances and especially when it comes down to addressing his superiors, if not the Commandant of the force.

In the present case, allegation is that the appellant used certain derogatory words against the Company Commandant, since he was not being granted leave, during the course of a conversation with his brother and it is also alleged that he was intoxicated and created nuisance in the mess.

The non-grant of leave at times within the disciplined force have had serious fall outs where the members of the force have either taken law in their hands by using guns against their superiors or against colleagues or at times they have even committed suicide. The Government of India, taking into account such instances, which has been happening on regular basis, has also taken remedial steps of such problems. Therefore, the whole approach of the superior authorities must have humane touch instead being guided by the issue of discipline.

The punishment of withholding reduction of pay-scale



of two stages for two years was good enough punishment to send a message to the appellant of not controlling his emotions due to refusal of leave. The matter should have been allowed to rest at that. There was no necessity to escalate the issue further by enhancing the punishment at the level of appeal by the appellate authority by imposing punishment of reduction by four stages for the period of four years and further create a feeling of victimization and grudge.

The appellant is only a Constable in the CISF. He is a lowly paid man and, therefore, some compassion must come into play in awarding punishment, which hits his life and his family badly.

In view of the above, the impugned order, dated 17.01.2014 is interfered with to the extent that the order of enhancement of punishment upheld by the appellate authority and the revisional authority, dated 6th of October, 2010 and 31st of December, 2010, respectively, are set aside.

The appeal is allowed to the extent indicated above.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

AFR/NAFR	N.A.F.R.
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