

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2022 of 2013

MD. WAIS S/O MD. MANSUR R/O VILL-BAGAH, P.S.-BIHIYA, DISTT-BHOJPUR, ARA, THEN POSTED AS CONSTABLE NO.-901420046, CENTRAL INDUSTRIAL SECURITY FORCE UNIT NTPC, KAHALGAON, DISTT-BHAGALPUR

... .. Petitioner/s

Versus

1. THE INSPECTOR GENERAL CENTRAL INDUSTRIAL SECURITY FORCE, PATNA EASTERN ZONE, HEADQUARTER, BORING ROAD, PATNA-800001
2. THE DEPUTY INSPECTOR GENERAL , CENTRAL INDUSTRIAL SECURITY FORCE, EASTERN ZONE, PATLIPUTRA, PATNA
3. THE COMMANDANT, CENTRAL INDUSTRIAL SECURITY FORCE, KHSTPP UNIT, KAHALGAON, BHAGALPUR

... .. Respondent/s

Appearance :

For the Petitioner/s : Mrs. Anita Sinha, Adv
For the Respondent/s : Mr. Anshuman Singh, CGC, UOI.

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 08-01-2018

Heard learned counsel for the parties.

2. This application under Article 226 of the Constitution of India has been filed for setting aside the order dated 13.07.2007 passed by the Commandant, Central Industrial Security Force (respondent no. 3) by which punishment of lower downing his scale of pay from Rs. 4050 to 3880/- has been imposed. It has further been ordered that the petitioner would not earn any increment in salary during the period of punishment which will have its future effect on the increment of pay. The petitioner has



further prayed for setting aside the Appellate order dated 24.05.2010 passed by the Deputy Inspector General, Central Industrial Security Force (respondent no. 2) dismissing his appeal, as well as the order dated 10.01.2012, passed by the Revisional Authority Inspector General, Central Industrial Security Force, dismissing his revision petition.

3. Briefly stated, the facts of the case is that petitioner had submitted an application dated 29.03.2006 for All India LTC, which was sanctioned to the petitioner vide order dated 14.12.2006, for his family members. After availing All India LTC, the petitioner submitted the bill for claim. On scrutiny of the bill, it was found that the age of one person mentioned in the tickets does not tally with the application dated 29.03.2006 submitted by the petitioner as well as order dated 14.12.2006, issued by the competent authority. It was also found that the signature was made intentionally at the place where age is mentioned in the tickets to conceal the fact. An explanation for submitting wrong LTC claim was asked from the petitioner by letter dated 29.01.2007. The petitioner submitted his reply dated 05.02.2007 mentioning that his Brother-in-Law had also



travelled with him at his own expenses, however, petitioner enclosed railway ticket of his Brother-in-Law, erroneously, in place of his father's ticket for claiming bill of All India LTC. The petitioner during the course of departmental inquiry stated that the ticket of his father was lost/misplaced.

4. The matter was verified from the office of CRS Bhagalpur Railway station to find out the facts. The CRS Bhagalpur was requested to provide a copy of reservation slip on the basis of which the above ticket was booked by the railway authorities. The same was provided and on seeing the reservation slip on which the petitioner had made his signature, it was clear that three tickets were issued against Md. Shageer Ahmad his Brother-in-Law. During departmental inquiry it has been proved that the petitioner applied for the same ticket and made reservation intentionally in the name of Md. Shageer his Brother-in-Law and submitted false LTC bill in place of his father to gain financial benefit. The departmental inquiry under Rule 36 of CISF Rules 2001, was initiated against the petitioner and show cause against the charges levelled against him



was asked by letter dated 03.03.20007, and in his reply he submitted that ticket of his Brother-in-Law Md. Shageer Ahmad, being claimed for LTC was wrongly submitted and for which he begged apology. The authorities of the department did not find the reply of petitioner to be satisfactory and appointed an inquiry officer to conduct the departmental inquiry and L.K Singh, Inspector was appointed as inquiry officer and he submitted his inquiry report by letter dated 15.06.2007, holding the petitioner guilty of the charges and thereafter a copy of the inquiry report was served upon the petitioner for his reply on the findings of the inquiry officer. The petitioner expressed unqualified apology that it was a mistake committed by him but same was not accepted as it was not a mistake but deliberate act to obtain financial gain by misleading the department by presenting LTC Bill with ticket of his Brother-in-Law in place of his Father.

5. The petitioner preferred an appeal before the DIG, Central Industrial Security Force, as contained in Annexure-2 and after due consideration by the DIG dealing with every point raised by the petitioner, the appeal of the



petitioner was dismissed by order dated 24.05.2010 as contained in Annexure-4 to this writ petition. The submission of the petitioner that by mistake he had submitted ticket of his Brother-in-Law was not accepted and believed by inquiry officer as well as disciplinary authority. The inquiry officer has held that the petitioner deliberately submitted ticket of his Brother-in-Law Md. Shageer Ahmad, who is not in the list of family members of the petitioner and who is not eligible for benefit of LTC and in order to gain financial benefit for which he was not entitled submitted ticket in such a manner that against the age, signature was made, in order to misguide the authorities, as such the explanation of petitioner that it was a mistake was not accepted by the inquiry officer and it was held that the charges against the petitioner of claiming LTC against the ticket of Brother-in-Law for unlawful financial gain was established and proved in the departmental inquiry. The disciplinary authority in agreement with the findings of the inquiry officer imposed the punishment after due consideration of reply submitted by the petitioner against the finding of the inquiry, and by a well and



reasoned order, imposed the punishment against the petitioner. In the order itself, it was mentioned that petitioner can file an appeal against the said order within thirty days but the petitioner did not file any appeal against the said order and filed his appeal after lapse of two and a half years and as such the appeal was dismissed, as time barred and no explanation was put forward by the petitioner for delay of two and a half years in filing appeal. The petitioner thereafter filed a writ petition in the High Court and the High Court directed the petitioner to file a revision petition before the revisional authority and thereafter petitioner filed a revision application which was also dismissed by the revisional authority after considering the revision petition of the petitioner. The contention of the petitioner that since he has admitted his guilt, he ought to have been given a minor punishment cannot be accepted. Petitioner did not accept his guilt that he had fraudulently with an intention to cheat the department by making false claim against ticket of his Brother-in-Law, who does not come within the purview of the family members, tampered the ticket in such a manner so that the authorities could get



misled and pass his LTC bill. The authorities also verified from the concerned railway station where reservation was made and it was found that petitioner himself had made reservation of three tickets one of which was in the name of his brother in law Md. Shageer Ahmad and therefore, the explanation of petitioner that it was by mistake was not correct and was not accepted, as such the authorities have taken into consideration the length of service of petitioner while considering the quantum of punishment and this court does not find that the punishment imposed on the petitioner is disproportionate to the gravity of charges, only because the contention of the petitioner that a lesser punishment should be awarded to him because he had accepted his guilt is also not correct. Mere acceptance of guilt does not lessen the gravity of offence. In the present case even the petitioner has not accepted that it was a fraudulent act on his behalf and his explanation that it was a bonafide mistake did not find favour with the authorities and charges levelled against him was proved.

6. The role of the court in the matter of departmental proceedings is very limited and the court



cannot substitute its own view or finding by replacing the findings arrived at by the authorities on detailed appreciation of the evidence on record. The findings of facts were not disturbed in the Departmental Appeal and Revision. It is a settled law that where there are relevant materials which support the conclusion that the delinquent is guilty, it is not the function of the High Court to arrive at an independent finding. If the enquiry has been properly held the question of adequacy or reliability of evidence cannot be canvassed before the High Court. The Apex Court in its judgment in the case of ***Union of India vs Narain Singh reported in (2002) 5 SCC 11***, has held as follows:-

"7. This Court has, in the case of Union of India vs Sardar Bahadur reported in (1972) 4 SCC 618 held that there are limits to the powers which can be exercised by a Single Judge under Article 226 of the Constitution and, similarly, there are limits to the powers of a Division Bench while sitting in appeal over the judgment of a Single Judge. This Court has held that where there are relevant materials which support the conclusion that the officer is guilty, it is not the function of the High Court to arrive at an independent finding. It has been held that if an enquiry has



been properly held the question of adequacy or reliability of evidence cannot be canvassed before the High Court.

*8. In the case of **Apparel Export Promotion Council vs A.K. Chopra**, reported in (1999) 1 SCC 759 it has been held by this Court that it is within the jurisdiction of the competent authority to decide what punishment is to be imposed and the question of a punishment is outside the purview of the High Court's interference unless it is so disproportionate to the proved misconduct as to shock the conscience of the court. It has been held that reduction of sentence by the High Court would have a demoralising effect and would be a retrograde step. It has been held that repentance/unqualified apology at the last appellate stage does not call for any sympathy or mercy."*

7. Considering the facts and circumstances of the present case, this court does not find any merit in this writ petition, and the same is dismissed.

(S. Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29.01.2018
Transmission Date	29.01.2018



