

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3032 of 2017

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Balacius Lakara S/o Leyos Lakara Resident of Village- Bahera Toli, P.O.- Khetli, P.S.- Dumri, District- Gumla, Ranchi, State- Jharkhand, at present working as Constable at Central Industrial Unit- I.O.C, Barauni, District- Begusarai, State- Bihar.

.... Petitioner/s

Versus

1. The Union of India, through the Secretary, Ministry of Home Affair, Govt. of India, New Delhi.
2. The Secretary, Ministry of Home Affair, Govt. of India, New Delhi.
3. The D.I.G., C.I.S.F, Home Ministry, New Delhi.
4. The Inspector General, Eastern Sector, Patna-13.
5. The Dy. Inspector General, Eastern Sector, Patna-13.
6. The Group Commandant, Central Industrial Security Force (Home Ministry), C.G.O., Complex, 8th Story, B- Block, Karpuri Thakur Sadan, Rajeev Nagar, Patna 25.
7. The Commandant, Central Industrial Security Force, Home Ministry, I.O.C. Unit- Barauni, District- Begusarai.
8. The Deputy Commandant, C.I.S.F., Home Ministry, I.O.C. Unit Barauni, Begusarai, Bihar.
9. Mr. K. Shakeel- Inspector C.I.S.F., I.O.C, Unit Barauni, Begusarai, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bankey Bihari Singh

For the Respondent/s : Mr. S.D SANJAY (ADDL. SOC. GEN.)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

CAV JUDGMENT

Date: 04-04-2018

The present writ petition has been filed for quashing the order dated 25.10.2016 passed by the Deputy Commandant, C.I.S.F., Home Ministry, I.O.C. Unit Barauni whereby and whereunder the punishment has been awarded to the petitioner herein and it has been directed to deduct an amount equal to two days pay. It has been further prayed to quash the order dated 27.12.2016 passed by the Senior Group Commander (Home Ministry) Eastern Region, Patna, by which the revision application of the petitioner has been rejected.

2. The short facts of the case are that the petitioner was appointed on 9.2.2002 on the post of constable and after training he



was posted at Rai Baraili on 1.12.2002, whereafter he was posted at various places. Subsequently, the petitioner is said to have developed some physical trouble and he was advised, by the doctor on 3.7.2016, to get admitted for treatment and thereafter he was advised rest on various occasions and lastly he was advised bed rest from 9.7.2016 to 11.7.2016. It is the case of the petitioner that he requested the higher officer for granting him light duty so that he could overcome his physical ailment. It appears that on 8.8.2016 at about 8.13 A.M., during the course of surprise inspection, the petitioner was found sleeping on the watch tower with his rifle on his side. Thereafter, the petitioner was issued a show cause notice by a letter dated 19.8.2016 to which the petitioner had subsequently replied and thereafter the Assistant Commandant, C.I.S.F. Barauni had passed an order of punishment dated 8.9.2016 wherein, after having found the petitioner guilty, it was directed to deduct three days pay of the petitioner. The petitioner had then filed an appeal and the appellate authority by the impugned order dated 25.10.2016 had though found the charges to have been proved but had reduced the punishment to the effect that only two days pay shall be deducted. The said order dated 25.10.2016 was challenged in revision, which was also dismissed by an order dated 27.12.2016.

3. The learned counsel for the petitioner has submitted that the actual fact is that when the petitioner was on the watch tower, he had taken some time stand up in view of the medicine which he



had taken for suppressing his pain, upon an inspection having been made and it is not a fact that he was sleeping. It is further submitted that, in fact, because of the medical trouble, the petitioner had requested the authority to give him light duty, but still he was given a hard duty, hence in view of the aforesaid facts of the present case, the authorities ought not to have punished by directing for deduction of pay, which in fact is a stigma and would become an impediment in grant of future promotions to the petitioner.

4. Per contra, the learned counsel for the respondents submits that admittedly the petitioner was not medically fit and upon inspection he was found sleeping which is a gross dereliction of duty and such type of act in the Armed Force of the Union amounts to indiscipline and lack of attention, as well as the same cannot be tolerated because security of the secured is at risk, however, a lenient view of the matter has been taken and the petitioner has been let off lightly.

5. I have heard the learned counsel for the parties and have gone through the materials on record. Admittedly, the petitioner was suffering from medical ailment and though the respondents have denied that the petitioner had requested for deputing him on light duty but the supplementary affidavit filed by the petitioner herein would show that the Assistant Commandant by his letter dated 22.8.2016, in pursuance of the application of the petitioner herein dated 17.8.2016 had directed the petitioner that in view of the fact that there is no post



of light duty, it would be proper that he takes rest after taking the advice of the doctor. I find that though it is an admitted position that the petitioner was suffering from a medical ailment and the petitioner ought to have taken leave, but instead he continued with his job resulting in the aforesaid lapses on his part, which now the petitioner is precluded from challenging under a writ jurisdiction. Now, the only question is with regard to the quantum of punishment, which in my considered view is not required to be interfered with, however, the present fact and circumstances of the case as well as the principle of equity requires issuance of direction to the effect that the said order of punishment shall not be considered a stigma on the petitioner herein and would not create any impediment in his future promotional prospects.

6. The writ petition is partly allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	28.03.2018
Uploading Date	04-04-2018
Transmission Date	

