

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12945 of 2009

=====

Pasupati Nath Thakur @ Pasupati Nath son of late Chhotan Thakur, resident of Village Bakarganj Goharspur P.O. Bankipur, P.S. Pirbabore, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The D.G. cum I.G. of Police, Bihar, Patna.
3. The D.I.G. of Police, Sahabad Range, Dehri on Sone.
4. The S.P., Bhojpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mrs.Nirmala Kumari, Adv. Mr. Purnendu Nr. Singh, Adv. Mr. Rakesh Kumar Singh, Adv.
For the Respondent/s	:	Mr.(AAG 2)

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date: 16-08-2018

The present writ petition has been filed for quashing the order of punishment dated 6.12.2003 whereby the petitioner has been dismissed from service as also the order dated 12.6.2009 passed by the Director General of Police whereunder the Appeal memorial, preferred by the petitioner has been dismissed.

2. The brief facts of the case are that a disciplinary proceeding was initiated against the petitioner vide Departmental Proceeding No. 08 of 1999 and charges were framed pertaining to the petitioner engaging in gross misconduct and indiscipline, disobeying the orders of the authorities and being absconder from duty. The petitioner was intimated for appearing in the ongoing departmental proceeding vide memo No. 12.5.1999, 29.7.1999, 22.8.1999, 30.8.1999, 5.10.1999, 6.11.1999, 20.11.1999 and 25.12.2000, but the



petitioner did not appear in the Reserve office. Thereafter, a registered letter dated 8.6.1999 as also other letters were sent by the Superintendent of Police, Patna to the petitioner for participating in the ongoing departmental proceeding. The enquiry officer had then, on the basis of the materials available on record, found the petitioner to be guilty of the charges levelled against him. The Superintendent of Police, Bhojpur, being in agreement with the opinion of the enquiry officer, issued a second show cause notice to the petitioner on 3.3.2002 and upon request of the petitioner herein, further time was granted to the petitioner to submit his reply, but he did not submit any clarification resulting in the disciplinary authority passing the order of punishment of dismissal from service dated 6.12.2003. Thereafter, the Deputy Inspector General of Police, Sahabad Range, Dehri-on-Sone before whom the petitioner had preferred an appeal, rejected the appeal of the petitioner vide order dated 14.2.2007. Thereafter, the petitioner is said to have filed appeal/ memorial before the Director General of Police, Bihar, Patna, which was rejected by an order dated 12.6.2009.

3. The learned counsel for the petitioner has submitted that on account of bona fide reason, the petitioner could not attend his duties. It is further submitted that the impugned order of punishment is bad inasmuch as no opportunity of hearing was granted to the petitioner and the enquiry has been conducted ex parte.

4. I have heard the learned counsel for the parties and



perused the materials on record as also the records pertaining to the departmental proceeding produced by the respondents. I find that there is no lacuna in conduct of the disciplinary proceeding as against the petitioner herein and on this score no fault can be found. Now, coming to the issue raised by the petitioner regarding him not having been granted opportunity of hearing, during the course of the disciplinary proceeding, I find that the petitioner had voluntarily not submitted his clarification and deliberately avoided participating in the disciplinary proceedings, which proves the guilt of the petitioner beyond doubt. In any view of the matter, it is apparent from the counter affidavit filed by the respondents that the petitioner is a habitual offender/defaulters and on various occasions his salary has been withheld on account of him having been absent in an unauthorized manner. It is also clear from the records that the petitioner is a habitual absconder from duty. It is a trite law that no indiscipline can be tolerated by the employees of an armed force/police force and any misconduct on the part of such delinquents is required to be treated with firm hands inasmuch as tolerating any sort of indiscipline will amount to spreading a wrong message amongst other members of the armed force/police force.

5. Now, coming back to the present case it is apparent from the records that charges levelled against the petitioner have been conclusively proved beyond doubt, the petitioner has no defence to the same and admittedly he has been an absconder



inasmuch as the petitioner was absent from duty in an unauthorized manner without leave. In such view of the matter, the order of punishment dated 06.12.2003 as also the appellate order dated 14.02.2007 and the Appeal memorial order dated 12.06.2009 do not require any interference, there being no procedural infirmity or impropriety in conduct of the disciplinary proceedings.

6. Having regard to the facts and circumstances of the case and for the reasons stated herein above, there is no merit in the present writ petition, hence, the same is dismissed.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.05.2019
Transmission Date	N/A

