

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1371 of 2013

In

Civil Writ Jurisdiction Case No.15067 of 2007

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Krishna Kant Tiwari, S/O Sri Mahendra Tiwari, Resident of Village Bariswan,
P.O.- Bariswan, P.S.- Shahpur in the District of Bhojpur

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The Union of India through the Director General, Central Reserve Police Force, C.G.O. Complex, Lodhi Road, New Delhi
3. The Director General, Central Reserve Police Force, C.G.O. Complex, Lodhi Road, New Delhi
4. The Inspector General of Police, Bihar Sector, Central Reserve Police Force, Patna
5. The Additional Deputy Inspector General, Group Centre, Mokama Ghat, Patna

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. A.B.Ojha, Sr. Advocate. Mr. Awadhesh Kumar Mishra, Advocate.
For the State	:	Mr. Rajeev Ranjan, A.C. to G.P. 20.
For the Union of India	:	Mr. Rajesh Kumar Verma, C.G.C.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-11-2018

Heard Shri A.B. Ojha, learned Senior counsel for the
appellant and Shri Rajesh Kumar Verma, learned counsel for the
Union of India as well as Shri Rajesh Kumar Verma, learned
counsel for the State.

This appeal questions the correctness of the impugned



judgment of the learned single Judge dated 23rd July, 2013 whereby the petition filed by the appellant has been dismissed relating to the termination of his services in the Central Reserve Police Force (hereinafter referred to as the 'CRPF').

The ground of termination, as is evident from the material on record, is that the appellant had suppressed the fact of his having been involved in a criminal case registered at Police Station Shahpur being Case No. 2 of 2006 under Sections 323, 324, 379, 384 and 448 of Indian Penal Code.

The defence taken by the appellant was that the said case had been registered against one Vijay Tiwary and Subhash Tiwary. Subhash Tiwary was made an accused showing his parentage as son of Mahendra Tiwari. It appears that on police verification carried out subsequently, it was discovered that the appellant had an alias name of Subhash Tiwary as per the said police report. It is this fact which is sought to be challenged by the learned counsel for the appellant on the ground that this was an imagination of the reporting officer and as a matter of fact Subhash Tiwary was a different person altogether. This position was sought to be explained during the pendency of this appeal and which is evident from the reply filed by the appellant in his affidavit dated 24th September, 2018 wherein, in paragraph-5, it



has been stated that Subhash Tiwary is the elder brother of the appellant but unfortunately the name of the appellant was being projected as an accused and, therefore, the said anomaly has been adversely read against the appellant by the learned single Judge. Hence, the impugned orders as well as the impugned judgment deserve to be set aside.

The argument of Shri Ojha, therefore, is directly on the issue that the identity of Subhash Tiwary and the appellant being absolutely different and distinct, the finding recorded by the authorities and the conclusion drawn by the learned single Judge are erroneous. He further submits that since the impugned decisions are based on erroneous assumptions of fact, consequently they being perverse deserve to be set aside. He further submitted that he has also brought on record documents to indicate that the appellant happens to be the other son of Mahendra Tiwari whereas Subhash Tiwary is his elder brother, namely the voter list, photostat copy of the PAN Card and the Election Identity Card of Subhash Tiwary.

On the strength of such documents, it is urged before this Court in the letters patent appeal that there was evidence to the effect that the identity of the appellant is different and distinct from that of Subhash Tiwary.



On the other hand, learned counsel for the respondents has relied on the judgment of the Apex Court in the case of *Union of India & Ors. v. Sukhen Chandra Das [(2008) 17 SCC 125]* to contend that keeping in view the provisions of the Central Reserve Police Force Recruitment Manual, 1975 and the provisions for maintaining the verification rules, a termination order, which may be innocuous in nature, cannot be questioned and that any such action taken is saved by law. He submits that no evidence was led by the appellant either before the appellate or any other higher authority to demonstrate that Subhash Tiwary had a different identity and was a different existing person as against the appellant. Accordingly, at this stage, in the present appeal, any such evidence adduced which is otherwise also not in conformity with the pleadings of the appellant should not be entertained.

Having given our thoughtful consideration, the issue that boils down for consideration before us is as to whether the appellant is a different person as against Subhash Tiwary and was there any evidence to that effect or not. It is now the admitted plea of the appellant himself that Subhash Tiwary is his elder brother. The evidence to that effect was not led before the authorities but an attempt has been made in the reply filed to



the counter affidavit to contend that Subhash Tiwary is the elder brother of the appellant for which reliance has been placed on an extract of the voter list, as well as the PAN Card and the Election Identity Card.

We have gone through the said documents and to our surprise, we find that Subhash Tiwary in his PAN Card gets his date of birth recorded as 2nd of May, 1980 and in the Election Commission Identity Card, the date of birth is 1st of January, 1977. Such documents, therefore, can neither be accepted by us, apart from the fact that they are photostat copies. These discrepancies, therefore, clearly indicate that the appellant has been unable to establish the alias identity of his personality without any cogent admissible evidence which could have been in the shape of any certified copy of a family birth and death register recording birth and death of the appellant together with Subhash Tiwary or otherwise and that too even it filed before the authorities concerned. This was necessary once it was known to the appellant that the police verification report categorically mentioned the appellant's alias name as Subhash Tiwary, who was an accused in the criminal case.

In such circumstances, the conclusion drawn by the learned single Judge or by the authorities do not suffer from any



infirmity much less a legal infirmity. The appeal fails and is hereby dismissed.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Saif/sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

