

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1277 of 2015

In
Civil Writ Jurisdiction Case No.7528 of 1999

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Baban Kumar Son of Sri Ramji Paswan Resident of Village- Majhaulia P.O.
Khabra P.S. Sadar District Muzaffarpur.

... .. Appellant

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, New Delhi.
2. Inspector General, C.R.P.F. Bihar Sector, Patna.
3. D.I.G., C.R.P.F. Bihar Sector, Shaikhpura Bailey Road, Patna.
4. Commandant, 81 Battallion, C.R.P.F. Mantri Pukhari, Imphal.
5. D.I.G.P., Special Range C.R.P.F. Old Secretariat Delhi-54.

... .. Respondents

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Appearance :

For the Appellant	:	Mr. Mrigank Mauli, Advocate
For the Respondents	:	Mr. S.D Sanjay (Addl. Soc. Gen.)
		Mr. Anshay Bahadur Mathur, C.G.C.

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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 : 13-02-2018

Heard learned counsel for the appellant and learned
Additional Solicitor General representing the Union of India.

This intra-Court appeal has been preferred by the appellant since his writ application was dismissed by the learned single Judge vide order dated 29.04.2015. The learned single Judge refused to interfere with the order of punishment of dismissal passed against the appellant since the punishment of dismissal was imposed after holding due enquiry and by giving him opportunity of hearing.



The primary charges brought against the appellant was that he, while being a member of the disciplined force i.e. 81 Battalion, C.R.P.F., on two occasions had abandoned the camp without due permission or leave and that he also indulged in unwanted arguments and showed disrespect to his seniors. Such conduct was found to be against the good order and discipline of the force.

In the enquiry opportunity was given to the appellant to participate and also cross examine witnesses and produce his defence. On conclusion, the enquiry officer found the charges against him to be proved. The disciplinary authority after considering the entirety of the material and explanation offered by the appellant decided to impose punishment of dismissal. That order was upheld by the appellate as well as by the revisional authority.

The learned single Judge has taken note of a second aspect of the matter that the appellant had accepted his guilt during the course of enquiry and, therefore, it was not open to him now to assail the finding which was reached on the basis of regular enquiry on which participation at every stage of the appellant is established.

If such a finding and acceptance of guilt is taken into consideration, then nothing by way of a procedure can be pointed



out which can go to the root of the matter or help the appellant overcome the order of punishment.

No doubt, an effort was made on behalf of the appellant before the writ Court to challenge the order of dismissal to be harsh and disproportionate. However, the learned single Judge keeping in mind the recent view of the Hon'ble Apex Court that members of the disciplined force or para military organizations do not have the liberty or leeway either to go missing without prior leave or permission or to indulge in indiscipline. Their conduct cannot be judged on the same yardstick as any other government employee and, therefore, even this aspect of the matter was negated.

Appellant, it seems, was appointed as a general duty constable in the year 1994. Within four years of his service, he had accumulated quite a baggage which culminated into initiation of a departmental proceeding and then order of punishment of dismissal passed in the year 1998. The conduct of the appellant and his behaviour is a pointer to the fact that he is not made to serve a disciplined force because he does not believe in remaining in discipline or following the command of the superiors.



In the above noted circumstances, the dismissal of the writ application cannot be said to be erroneous in any manner. The Court is not inclined to interfere with the said order.

Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

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