

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.18639 of 2009**

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Babubhai Vithalbhai Solanki, son of Shri Bithal Bhai Solanki, resident of  
village & Post- Umta, Tehsil- Visnagar, District- Mehsana, Gujarat-38432.

... .. Petitioner

Versus

1. The Union of India, through Secretary, Department of Home, Government of India, New Delhi.
2. The Director General of Central Reserve Police Force, R.K. Puram, New Delhi.
3. The Additional Director-cum- Inspector General, Central Reserve Police Force, Chandigarh, Union Territory.
4. The Deputy Inspector General, Central Reserve Police Force, Chandigarh, Union Territory.
5. The Commandant, 134-B, Battallion, Central Reserve Police Force, Gaighat, Gulzarbagh, Patna-800007 (Bihar).

... .. Respondents

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**Appearance :**

|                        |   |                                                                        |
|------------------------|---|------------------------------------------------------------------------|
| For the Petitioner/s   | : | Mr. Sarvan Kumar Singh, Senior Advocate                                |
| For the Union of India | : | Mr. Awadhesh Kumar Pandey, S.G.C.<br>Mr. Ravinder Kumar Sharma, C.G.C. |

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL JUDGMENT**

**Date : 09-03-2018**

Heard learned counsel for the petitioner and learned  
counsel for the Union of India.

2. In this case, the petitioner is challenging the order of  
punishment dated 06.06.2001 (Annexure-5), whereby and where-  
under the petitioner has been dismissed form the service. Against  
the order of punishment, the petitioner has filed an appeal before  
the Deputy Inspector General of Central Reserve Police Force,  
who vide order dated 22.10.2001 (Annexure-9) has modified the



order by substituting the punishment from dismissal of service to removal from service and that order was challenged by the petitioner before the Revisional Authority, who vide order dated 12.07.2002 (Annexure-10) rejected the Revision Application. Thereafter he has filed a Mercy Appeal before the Commandant, Personnel, which has also been rejected vide order dated 23.12.2002 (Annexure-11) as the Commandant did not find any merit in the Mercy appeal of the petitioner.

3. The petitioner was a member of the Central Reserve Police Force, was posted at Makdumpur on 18.11.2000 had applied for leave in connection of attending the marriage of his daughter which was fixed on 30.11.2000. He was assured grant of leave subject to arrival of additional force as at the relevant time there was a shortage of strength of constable. On 18.11.2000, he went outside the camp. He arrival at camp at about 13:30 hours in inebriated condition and started abusing loudly, on hearing loud voice, Sri Surendra Kumar Mehra, came there and asked the head constable, Prakash Shah, about the incidence. He told that the constable B.B. Solanki was abusing badly, then he directed to produce the said constable before him. As soon as he entered into the office, he abused the Commandant Hawaldar Major and scuffled with him, whereupon the B.B. Solanki was asked why he



was abusing and scuffled with the Commandant Hawaldar Mand. Whereupon, the petitioner started abusing the Officer Commanding and caught his shirt collar and threatened him to kill. Later on, looking to the marriage of his daughter he was sanctioned 27 days leave and also also provided the railway warrant and thereafter the Officer Commanding directed Platoon Commander, R.P. Namboori, to drop him in the railway station but the petitioner stated he would not go on leave and started abusing to Platoon Commander and threatened him to kill him. The Officer Commanding informed the incident to the Higher Officer, who in turn, sent the petitioner to the medical examination. The medical examined was done and it was found that the petitioner was overloaded with the liquor. For this incident, a charge-sheet was issued to the petitioner and he was asked to submit the explanation, which the petitioner filed on 28.05.2001 (Annexure-4), wherein he accepted that he had taken liquor outside the camp and what had happened in inebriated condition he was not remembering the incidence, further said that he would not repeat the same mistake what he had committed. Even though he had accepted *prima facie* guilt but a formal inquiry was conducted, witnesses were examined by the prosecution and where-after the Inquiry Officer submitted inquiry report dated 28.05.2001. Where-



after, the petitioner filed his explanation or comment on 28.05.2001 (Annexure-4), in which the petitioner has not disputed the incident rather he has accepted that he committed mistake in an intoxicated condition. Considering the inquiry report as well as explanation of the petitioner, the Disciplinary Authority passed the order dated 06.06.2002, in which recorded the finding of charges proved against him and awarded punishment of dismissal from service. Against that order, the petitioner filed an appeal. The Appellate Authority interfered with the order of the Disciplinary Authority to that extent in place of dismissal from service it has been replaced with removal from service. Against that order, the petitioner has moved before the Revisional Authority, that has also been rejected as well as his mercy appeal was rejected.

4. Learned counsel for the petitioner submits that the charge is an exaggeration when he was allowed the leave why a constable will behave in such manner and will abuse and threaten the higher officer for dire consequences, further submitted that he was in depressed condition, might have taken liquor, tanking liquor cannot be said to be an act of misconduct and for that the punishment should not have been awarded of dismissal from service looking to the condition under which the petitioner was reeling the under pressure during that period, as he was making



prayer for leave to attend the marriage of his daughter but the authority refused to grant the same, so whatever the incident had taken place it was under the intoxicating condition as well as under depression he had done it. He further submits that the petitioner was only a constable of the lowest in the hierarchy so the case of the petitioner should be considered sympathetically and it should be replaced by any other order by this Court.

5. Learned counsel for the Union of India submits that the action of the petitioner is so aggressive in nature, he has not only abused the higher officials in inebriated condition but also threatened to kill his higher officers. When they wanted to help him and wanted to drop him in the railway station, he said he would not go on leave but abused the person who was asked to drop him there and if this act would be accepted to be a mere violation, in the police force which is supposed to be a disciplined force will not survive and will create more indiscipline in the entire unit and as such, this Court should not interfere with the order as the order cannot be said to be shockingly disproportionate but looking to the nature of the allegation made and proved he cannot be continued in service in a disciplined force. In support of his submission, he placed reliance on the decision of the Supreme Court reported in the case of *C.R.P.F. vs. Surinder Kumar*, reported in 2011 (10)



*S.C.C. page 244* and in the case of *Union of India and Ors. vs. Diler Singh*, reportede in *2016(13) SCC page 71*, where also similar type of allegation was made and the Court has refused to interfere with the order of punishment imposed against the employee.

6. Looking to the entire facts and circumstance, the petitioner not only abused the higher officials but also threatened them for dire consequences, in such circumstance, the punishment which has been imposed upon the petitioner cannot be said to be shockingly disproportionate and requires any interference by this Court in the judicial review jurisdiction. Hence, this Court is refusing to substitute the punishment which has been awarded by the different authorities and this Court does not find any merit in this writ petition. Accordingly, this writ petition is dismissed.

**(Shivaji Pandey, J)**

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