

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4049 of 2018

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Jagbir Singh, aged about 46 years, S/o Sri Hiral Lal, R/o Gali No. 30/B, Swatnatra Nagar, Near Bharat Mata Mandir, Narela, Delhi- 40, and permanent resident of Village- Saidpur, P.S.- Kharkhoda, District- Sonapat (Haryana).

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, North Block, New Delhi.
2. The Director General, Central Industrial Security Force, Ministry of Home Affairs, North Block, New Delhi.
3. Inspector General, Central Industrial Security Force, Eastern Zone Headquarter, C.I.S.F. Office Complex, Patliputra, Boring Road, Patna.
4. Deputy Inspector General, Central Industrial Security Force, Eastern Zone Headquarter, C.I.S.F. Office Complex, Patliputra, Boring Road, Patna.
5. Commandant, Central Industrial Security Force, Unit BALCO, Korba, P.S. & District- Korba (Chhattisgarh).
6. Assistant Commandant-cum-Inquiry Security Force Unit, BALCO, Korba, P.S. & District- Korba (Chhattisgarh).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Sharma Mr. Pramod Kumar Sinha Mr. Chetan Kumar
For the Respondent/s	:	Mr. S.D SANJAY (ADDL. SOC. GEN.)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
C.A.V. JUDGMENT

Date : 20-03-2018

The present petition has been filed for quashing the order dated 17/18 January, 2018, whereby and whereunder the representation filed by the petitioner has been dismissed.

The short facts of the case are that the petitioner was departmentally proceeded on two charges, first being regarding having over stayed on leave for 10 days and second being regarding him having over stayed on leave for 272 days without any information.

During the course of the departmental enquiry, the



charges were found to have been proved whereafter the disciplinary authority had passed the punishment order of removal. Against the said order of punishment of removal dated 19.07.2001, the petitioner preferred an appeal before the appellate authority which was also rejected by an order dated 05.12.2001. The revision filed by the petitioner was also rejected vide order dated 25.07.2002, whereafter the petitioner assailed the order of dismissal before the Hon'ble Delhi High Court in Writ Petition No. 793 of 2003, however the same was dismissed as withdrawn by an order dated 29.08.2006 with a liberty to the petitioner to make representation to the respondents in accordance with the rules. The representation of the petitioner was also rejected by an order passed by the departmental authorities on 03.04.2007. Thereafter, the petitioner approached this Hon'ble Court by filing a writ petition bearing CWJC No. 9031 of 2008. However, the writ petition was dismissed by an order dated 16.07.2013 by a speaking and reasoned order and this Court came to the conclusion that the petitioner herein, during the course of him being on probation, had not once but twice over stayed leave for a period of 10 days and 272 days respectively, which is a serious charge, considering the fact that the said act of



indiscipline was committed while him being a member of disciplined armed forces of the Union, hence this Court declined to interfere either on merits of the case or on the issue of quantum of punishment and the writ petition was dismissed. The petitioner appears to have assailed the said order dated 16.07.2013 passed in CWJC No. 9031 of 2008 by filing an appeal bearing L.P.A. No. 1394 of 2013, however, the learned Division Bench of this Court by an order dated 16.11.2017 came to the conclusion that there is no error in the order passed by the Writ Court so as to warrant any re-consideration and disposed off the said L.P.A. with liberty to the petitioner to approach the competent highest authority of the Department so that the said authority may re-examine the claim of the petitioner herein limited to the extent of modification of the punishment order or interfering with the quantum of punishment, however, it was made clear that no opinion has been expressed on the merits of the contentions advanced and merely the matter has been remanded to the competent authorities for consideration. It appears that the petitioner had then approached the highest authority i.e. the Director General, C.I.S.F and the Director General, C.I.S.F., by an order dated 17/18 January, 2018 has rejected the representation of the petitioner herein by a detailed,



self speaking and a reasoned order.

The learned counsel for the petitioner submits that the petitioner has submitted proof of him being advised to take rest by the doctors of Government Hospital for nine months and he has also produced sufficient proof before the concerned authorities to show his bona fides, hence at least the punishment of removal from service ought to have been interfered with since the same was/is shockingly disproportionate to the charges levelled against the petitioner herein.

Per contra, the learned Additional Solicitor General for the Union of India has submitted that the impugned order dated 17/18 January, 2018 is a reasoned and self speaking order, hence the same does not require any interference.

I have heard the learned counsel for the parties and gone through the materials on record.

It is apparent from the order dated 16.07.2013 passed in CWJC No. 9031 of 2008 and order dated 16.11.2017 passed in L.P.A. No. 1394 of 2013 by a learned Single Judge / Hon'ble Division Bench of this Court that neither the order of punishment dated 19.07.2001, by which the petitioner was inflicted with the penalty of removal from service nor appellate order dated 05.12.2001 nor the revisional order dated



25.07.2002 have been interfered with. It is equally apparent from the records that the aforesaid orders have also not been annulled by any Court of law till date. In fact the learned Division Bench of this Court while remitting the matter to the highest competent authority of the Department for re-examining the claim of the petitioner, limited to the quantum of punishment, had neither quashed the order of removal of the petitioner nor interfered with the order of the learned Single Judge dated 16.07.2013, by which the order of punishment and other orders had been upheld, hence now after the representation of the petitioner has been rejected by the highest authority i.e. the Director General, C.I.S.F., it is too late in the day to contend that the said order dated 17/18 January, 2018 should be set aside since the punishment inflicted on the petitioner is disproportionate to the charges levelled against him.

I may hasten to add that the C.I.S.F. is a disciplined force of the Union of India and any indiscipline on the part of the members of the force has a bad impact as also affects the maintenance of discipline, hence constitutes an act of grave misconduct. In the present case, the petitioner herein, at the very inception of his career i.e. within the period of probation became habitual to over staying on leave, which is a serious



case of misconduct on the part of the petitioner herein. The charges of over staying on leave, as against the petitioner herein, have been proved beyond all reasonable doubt and the defence of the petitioner has been found to be not plausible, upon examination by various authorities at different stages, hence no mercy can be shown for such type of misconduct on the part of the petitioner herein, thus the order of removal of the petitioner requires no interference by this Court. Another aspect of the matter is that neither the Writ Court nor the appellate court, while remanding the matter to the highest competent authorities of the respondents for re-consideration of the quantum of punishment had set aside the order of punishment dated 19.07.2001 or the appellate order dated 05.12.2001 or the revisional order dated 25.07.2002 and had merely relegated the petitioner to the departmental remedy of reconsideration of the entire matter regarding the quantum of punishment on the premises that in a case like the present one it is only the Department which can assess the quantum of punishment and the Court has got no role to play.

In such view of the matter, I find that the order dated 17/18 January, 2018 passed by the Director General, C.I.S.F. has taken all the aspects under consideration and thereafter a well



reasoned, just, equitable and speaking order has been passed, whereby and whereunder the representation of the petitioner has been rejected, as such the same does not require any interference by this Court.

The writ petition is, accordingly, dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	
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