

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 13768 of 2014

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Ganga Kumar Mahto @ Ganga Kumar Mehta, Son of Late Sri Ram Ikbhal Mahto, resident of Village Gotpa, Post Office- Gotpa, Police Station Karakat, District- Rohtas (Bihar)

... .. Petitioner/s

Versus

1. The Union Of India through Secretary of Department of Home Affairs, Government of India, New Delhi
2. The Director General of Police, Central Reserve Police Force, Patna.
3. The Deputy Inspector General of Police, Central Reserve Police Force, Patna.
4. The Commandant 4th Bn C.R.P.F., Kokrajhar, Assam.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Sandip Singh, Advocate
For the Respondent/s : Mr Manoj Kumar Singh, CGC

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 23-07-2019

Heard Mr Sandip Singh for the petitioner as well as Mr Manoj Kumar Singh for the Union of India.

2 Petitioner has been dismissed from service by order dated 31.05.2002 passed by the Commandant of 04th Batallion, Central Reserve Police Force (for brevity, CRPF), Kokrajhar (Assam). Petitioner's appeal against the order of dismissal has also been rejected on 27.09.2002 by the Deputy Inspector General of Police, CRPF, Patna. The punishment of dismissal from service



stands confirmed by the Appellate Authority. Both these orders are assailed in this instant writ petition.

3 Petitioner, while posted at Kokrajhar in Assam, which is a sensitive area and where the petitioner's battalion was discharging counter insurgency duty, has ventured out of the Battalion Area and consumed liquor and is also alleged to have molested a married civilian lady. Petitioner was beaten up and suffered head injury where after he was shifted to the Civil Hospital, Kokrajhar during night itself wherein he was admitted for treatment. The deployment of the petitioner was in a highly militant prone area. On account of the indiscipline alleged, the petitioner was proceeded against by the authorities under the provisions of the CRPF Rules. Articles of charge were served on the petitioner on 05.05.2002.

4 Petitioner's counsel submits that the petitioner has wrongly been implicated in this case and he denies the occurrence altogether. He submits that the victim lady has also not deposed in the proceedings against the petitioner and that the proceedings were conducted without supplying copies of the entire evidence which was being considered by the authorities.

5 Learned counsel for the Union of India has drawn attention of the Court towards Annexure D of the counter affidavit



which is a handwritten signed statement given by the petitioner on 20.04.2002. The statement is to the effect that the alleged victim lady was indulging in illicit trade of country made liquor and, therefore, the petitioner had visited the place only with the intention of consuming country made liquor. The other allegations have been denied by the petitioner. It is submitted by learned counsel for the Union of India that admission of the petitioner dated 20.04.2002 has been suppressed by the petitioner while filing the writ petition. The same is a relevant material fact. Suppression of such facts leads to a conclusion that the petitioner has not approached this Court with clean hands. On this ground alone, the petitioner is disentitled to any relief from the equitable jurisdiction of this Court under Article 226 of the Constitution of India.

6 The averments made in the counter affidavit and the admission of the petitioner, which has been annexed, have not been denied or disputed by filing any rejoinder. That apart, this Court would further consider that upon the enquiry being completed, the petitioner was afforded an opportunity for making his response to the Enquiry Report, which petitioner has chosen not to avail. The petitioner has, therefore, waived his right in respect of opportunity. Having done so, the petitioner cannot be



permitted to turn around and allege any violation of the principles of natural justice. The party who chooses not to avail of the opportunity granted to him is deemed to have waived the requirement of natural justice. In this connection, this Court would refer to the judgment of the Apex Court in the case of Board of Director, Himachal Pradesh Transport Corporation & Another -Versus- K C Rahi, (2008) 11 Supreme Court Cases 502.

7 For the reasons indicated hereinabove, this Court does not find any reason to interfere with the punishment awarded to the petitioner. Writ petition is devoid of merit and is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.08.2019
Transmission Date	NA

