

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7092 of 2015

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Raj Kumar, Son of Rehtu Singh, Resident of Gram - Nalhera Gujjar, P.S. - Rampur Maniharn, District - Saharanpur, U.P.

... .. Petitioner/s

Versus

1. The Union Of India through the Ministry of Home through its Secretary, Ministry of Home Affairs, North Block, New Delhi – 110 001
2. The Inspector General of Police, Central Reserve Police Force, Bihar Sector, Patna.
3. The Deputy Inspector General of Police, Central Reserve Police Force, Patna Range (Bihar), Digha – Ashiana Road, Post – Ashiana Nagar, District – Patna – 800 025
4. The Commandant 11th Battalion, Central Reserve Police Force, Latehar, Jharkhand.

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Gaurav Kumar, Anurag Saurav, Advocates
For the Respondent/s : Mr Rajesh Kumar Verma, ASG

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 25-06-2019

It is prayed by the petitioner's counsel that more time be granted to file rejoinder.

2 Prayer is rejected.

3 Matter has been pending since 2015. Petitioner has taken four adjournments. In spite of that, rejoinder has not been filed till date.

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



5 Writ petition has been filed for quashing the order of punishment dated 10.08.2013 passed by the Commandant 11th Battalion, Central Reserve Police Force (for brevity, CRPF) whereby the petitioner has been dismissed from service as Constable on General Duty in the CRPF. The order of the Appellate Authority dated 17.10.2014 affirming the order dated 10.08.2013 has also been challenged. Petitioner has availed the remedy of revision before the Inspector General of Police, Bihar Sector, CRPF, Patna which has been rejected by order dated 17.12.2014. The same is also assailed in the instant proceedings.

6 The petitioner was, at the relevant point of time, posted in the CRPF at a Naxal infested district, namely, Latehar. Allegation against the petitioner was that on 11.07.2012, without permission of the competent authority, the petitioner had gone out of the campus. Such conduct constituted violation of the Standing Orders. Having committed such a violation, the petitioner is alleged to have consumed liquor in the market outside and, thereafter, has misbehaved, indulged in fist fight and scuffled with other members of the CRPF in the market outside the campus. On such allegations, he has been proceeded against.

7 After serving charge Memo dated 03.01.2013, the proceedings were conducted against the petitioner. Before the



Enquiry Officer, the petitioner took a stand that in view of the fact that he was in an intoxicated condition due to consumption of beer, he could not recollect what all had transpired on the fateful day that is 11.07.2012. There is inherent specific admission of the petitioner before the Enquiry Officer. The same has also been reiterated in the petition filed in these proceedings before this Court.

8 The petitioner expressed remorse on this behaviour and in the proceedings, altogether six witnesses were examined on six different dates. The witnesses were examined on 25.02.2013, 26.02.2013, 27.02.2013, 28.02.2013, 01.03.2013 and 02.03.2013. Witnesses were examined in presence of the petitioner and the petitioner did not avail of his opportunity to cross examine the witnesses. On 02.03.2013, Enquiry Officer allowed 15 days' time for filing his submissions, evidence or produce his witness. The petitioner did not file any response thereto. The petitioner, therefore, after having admitted to the misconduct, also did not avail his opportunity and, therefore, is not in a position to raise any issue regarding violation of principles of natural justice. In this connection, this Court would refer the decision of the Apex Court in the case of *Board of Director, Himachal Pradesh Transport Corporation & Anr -Versus- K C Rahi, 2008 (11) Supreme Court*



Cases 502. The Disciplinary Authority, i e, the Commandant having considered the materials, thus, concluded that the nature of misconduct committed by the petitioner in a Naxal infested district amounted to operational misconduct and, therefore, was to be dealt with by the extreme punishment of dismissal from service. The findings of the Disciplinary Authority are based on admitted facts and circumstances, for reasons and by a procedure which inspires confidence. The same does not require any interference in the opinion of this Court.

9 Appellate Authority's order has also been impugned. This Court would find that since there was no infirmity in the procedure adopted by the Enquiry Officer and the Disciplinary Authority, order passed by the Appellate Authority also does not require any interference.

10 This Court would only take note of the fact that the Appellate Authority has, in its wisdom, toned down the punishment of dismissal and converted it into a punishment of removal from service. The Appellate Authority, therefore, has interfered with the quantum of punishment.

11 Since the discretion has been exercised by the Appellate Authority, the petitioner has been given some relief as to the quantum of punishment by the Appellate Authority. The



conclusions of the Disciplinary Authority as well as the Appellate Authority, therefore, require no interference.

12 Revisional Authority has, therefore, rightly rejected the petitioner's application for revision under the order dated 17.12.2014.

13 The writ petition, therefore, assailing the order of punishment, is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.07.2019
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