

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1139 of 2018

In
Civil Writ Jurisdiction Case No.13344 of 2016

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1. The Union Of India through the Secretary, Union Home Ministry, Government of India, New Delhi.
 2. The Director General, C.R.P.F., C.G.O. Complex, North Block, Lodhi Road, New Delhi.
 3. The I.G. of Police, C.R.P.F., Bihar, Patna.
 4. The D.I.G. of Police, C.R.P.F. Bihar, Patna.
 5. The Addl. D.I.G. of Police, Group Centre, C.R.P.F. Mokamaghat, Bihar, Patna.
 6. The Assistant Commandant Group Centre, C.R.P.F. Mokamaghat, Bihar, Patna.

... .. Appellant/s

Versus

Md. Jahid Khan son of Md. Late Aziz, resident of Village- Lakhanchand,
Police Station- Mokama, District- Patna

... .. Respondent/s

Appearance :

For the Appellants : Mr. Awadhesh Kumar Pandey, S C G C
Mr. Ravinder Kumar Sharma, C.G.C.

For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 28-08-2019

Re. I.A. No. 6138 of 2018

We have heard learned counsel for the appellants and we find that the delay has been sufficiently explained. The delay condonation application is allowed and the appeal shall be treated to be within time.

Re. L.P.A. No. 1139 of 2018

We had adjourned the matter to enable the learned



counsel for the appellants to produce the record relating to the disciplinary enquiry proceedings against the respondent-petitioner Md. Jahid Khan. The challenge raised to the judgment of the learned Single Judge is on the ground that the learned Single Judge has erred in allowing the writ petition in spite of the fact that the evidence in support of the charge that the respondent-petitioner had committed misconduct by inter-changing his duties had been established. It is the contention of the learned counsel for the appellants that this change of duty was unauthorized and it was impermissible and, therefore, this was a clear misconduct. It is also submitted that the missing of a fire-arm which is alleged to have been handed over to the respondent-petitioner by Constable A.K. Mishra being a serious charge, no error has been committed by the Disciplinary Authority in proceeding to award the punishment of dismissal.

Learned counsel, therefore, submits that in the background of the charges and the fact that the respondent-petitioner himself has accepted this internal change of duty, which was without the authority in law, amounts to establishing the charge of misconduct.

We have considered the submissions in detail and have also perused the records as well as findings recorded by



the learned Single Judge. The learned Single Judge has taken pains to record each and every evidence that was relevant for the adjudication of the controversy, including the statement of the witnesses, from where it has been gathered that the defence of the respondent-petitioner about the change of duty could not be contradicted by the statements made by the prosecution witnesses who themselves have indicated that the change of duty had occurred with the permission of the concerned *Hawaldar*.

We find from the statement of the Chaturbhuj Sharma and Md. Latif that the finding recorded by the learned Single Judge after taking into account the statements does not suffer from any perversity or infirmity.

The charge relating to non-deposit of fire-arm has been inclusively established against A.K. Mishra who, it is informed, has already been punished. In the said background and after having gone through the evidence on record, the learned Single Judge, in our opinion, was justified in setting aside the impugned order of dismissal.

We have not been able to find out any error even after from perusal of the records so as to reverse the judgment.

The appeal lacks merit and is, accordingly,



dismissed.

The records, which have been perused by us, has been handed over back to learned counsel for the appellants.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Saif/-

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