

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6387 of 2018

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Shailesh Kumar Mandal Son of Uday Mandal, Resident of Village-Vishal,
Police Station-Pirpainti, District-Bhagalpur.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary of Department of Home Affairs, New Delhi.
2. The Director General of Central Industrial Security Force, Ministry of Home Affairs, New Delhi.
3. The Assistant Inspector General/ L and R, CISF, New Delhi.
4. The Inspector General, CISF, SZ Headquarters, Chennai
5. The Deputy Inspector General, CISF, SZ Headquarters, Chennai.
6. The Deputy Inspector General, CISF Unit, NLC, Neyveli, Tamil Nadu
7. The Senior Commandant, CISF Unit, BDL, Kandhanbag, Hyderabad.
8. The Deputy Commandant, CISF Unit, BDL, Bhanur, Andhra Pradesh
9. The Commandant, CISF Unit, BDI Bhanur, Andhra Pradesh.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar, Adv.
For the Respondent/s	:	Mr. S.D Sanjay Addl. Soc. Gen.
		Mr. Satyavrat Verma, CGC

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 25-07-2019

Heard learned counsel for the parties.

In the present case, the petitioner is challenging the order contained in letter no. 3145 dated 16.6.2015, whereby and whereunder, the Senior Commandant, C.I.S.F. Unit, BDL, Kanchan Bagh, Hyderabad, has removed the petitioner from service on the ground of desertion from the Unit which was challenged before the appellate authority who, vide order contained in letter no. 7524 dated 28.9.2017, has rejected the



appeal on account of the appeal being barred by limitation and refused to discuss the case on merit.

The petitioner was a member of C.I.S.F. Unit. While the petitioner was relieved from C.I.S.F. Unit NLC Neyveli to C.I.S.F. Unit BDL Bhanur on 30.6.2014, as per movement order, he was entitled to avail 10 days joining time from 1.7.2014 to 10.7.2014 and supposed to report to the C.I.S.F. Unit Bhanur on 11.7.2014 but, he did not report to the C.I.S.F. Unit at Bhanur and overstayed from 11.7.2014 to 24.11.2014 for a period of 137 days that too without any leave or permission from the competent authority, whereafter, the authority concerned decided to initiate a departmental proceeding and, accordingly, the following charge-sheet was framed:-

“CISF No.091560102 Constable/GD Shailesh Kumar Mandal of CISF Unit BDL Bhanpur while posted at CISF Unit NLC Neyveli was relieved on regular posting from CISF Unit NLC Neyveli to CISF Unit BDL Bhanpur on 30.06.2014 (AN) vide CISF Unit NLC Neyveli Movement Order bearing No.E-38014/Movement Order/Adm-1/14/4996 dated 30.06.2014. As per directions contained in the said Movement Order, he was entitled to avail 10 days joining time from 01.07.2014 to 10.07.2014 and supposed to report at CISF Unit BDL Bhanpur on 11.07.2014 (FN). But, he did not report at CISF Unit BDL Bhanpur on 11.07.2014 and overstayed from joining time w.e.f. 11.07.2014 to 24.11.2014 for a period of 137 days on his



own without any leave or permission from the competent authority and reported at CISF Unit BDL Bhanur on 25.11.2014. His act of non-reporting in time to the new place of posting i.e. at CISF Unit BDL Bhaur and overstaying from joining time w.e.f. 11.07.2014 to 24.11.2014 tantamount to serious misconduct, gross indiscipline, dereliction of duty and disobedience of lawful orders considering that he is a member of disciplined Central Armed Police Force of the Union.”

The petitioner was asked to participate in the departmental proceeding but, even after receipt of notice, he did not participate in the departmental proceeding and finally the enquiry officer submitted the findings against the petitioner which was submitted to the competent authority and, accordingly, he was served with the second show-cause notice to which also he did not respond, ultimately, the Senior Commandant, C.I.S.F. Unit BDL, Kanchan Bagh, Hyderabad passed the order of his removal.

After more than two years, the petitioner filed an appeal, the Appellate Authority found the appeal barred by limitation as the appeal has been filed after long delay without dealing with the merit of the case, rejected the appeal.

Mr. S.D. Sanjay, learned Additional Solicitor General, appearing on behalf of the Union of India, submits that this Court, on account of lack of territorial jurisdiction, has no jurisdiction to entertain this writ application, as stated, that the petitioner was



posted at Hyderabad and, from there, he was transferred to the State of Tamilnadu, the departmental proceeding was initiated in Hyderabad and the final order has been passed by the Senior Commandant at Hyderabad, which challenged before the D.I.G., C.I.S.F., Hqrs., Chennai who rejected the appeal and, as such, no cause of action or part thereof has arisen in the State of Bihar. Therefore, this Court has no jurisdiction to entertain the present writ application whereas learned counsel for the petitioner has pointed out that when the petitioner did not report to the duty, he was issued show-cause notice to which he replied from his native place situated in the State of Bihar and, ultimately, the order has been passed, communicated to his native place, the appeal too has been filed by the petitioner from the native place in State of Bihar, so, a submission has been made that the Court has jurisdiction to entertain this writ application.

The preliminary point taken by the Union of India is of no substance on account of the terms of Article 226 of the Constitution of India which deals with the cause of action or part thereof. Certainly, the show-cause was issued to the petitioner at his native place in the State of Bihar, that itself creates a cause of action to the petitioner to approach this Court. This Court is not examining the order passed by the Disciplinary Authority as the



appeal has been rejected only on the ground of delay in filing of appeal after two years.

Accordingly, the order contained in letter no. 7524 dated 29.8.2017 passed by the Appellate Authority is set aside and the matter is remanded back to the Appellate Authority who will decide the case of the petitioner on its merit as this Court is not giving any opinion on the merit of the case.

With the aforementioned observation, this writ application is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2019
Transmission Date	

