

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.656 of 2018

In
Civil Writ Jurisdiction Case No.14403 of 2015

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Jiwachh Paswan, Son of Late Ram Badan Paswan, Resident of village-
Banbhora, Police Station- Bithan, District- Samastipur

... .. Appellant/s

Versus

1. The Union Of India
2. The Inspector General of Police (Bihar Sector), Central Reserve Police Force, Patna.
3. The Deputy Inspector General, Group Centre, C.R.P.F., Mokama Ghat, Patna.
4. The Commandant, Central Reserve Police Force, Mokama Ghat, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Nandan Singh, Advocate Mr. Sanjay Kumar No.7, Advocate
For the Respondent/s	:	Mr. S.D Sanjay, Addl. Soc. Gen. Mr. Akshay Bahadur Mathur, C.G.C.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 15-05-2019

Heard learned counsel for the appellant and Shri S.D. Sanjay, learned counsel for the respondents.

2. The appeal questions the correctness of the judgment dated 14th April, 2018 of the learned single Judge who has proceeded to dismiss the writ petition and upheld the order of punishment of dismissal of the appellant from the services as a Constable of the Central Reserve Police Force.



3. The background is that the appellant is alleged to have attempted to misappropriate 40 ground sheets (*Daris*) kept in the store of the Central Reserve Police Forces godown at Mokama Ghat, Patna.

4. The Company Commander vide notice dated 23.08.2014 tendered the charges and the Commandant vide order dated 19th December, 2014 inflicted a minor punishment under Section 11(3) of the C.R.P.F. Act, 1949.

5. It appears that in exercise of the powers under Rule 29(1)(d) of the Central Reserve Police Force Rules, 1955, proceedings were initiated for revising the said order of punishment vide order dated 27th January, 2015. The appellant was placed under suspension and a charge memo was served to the appellant afresh and a regular enquiry was instituted and the same was conducted, whereafter the punishment order of removal was passed, which was also challenged in the writ petition by moving an I.A. No.8530 of 2015.

6. Learned counsel for the appellant has urged that this power was not available inasmuch as in order to enhance the punishment, a show cause notice was necessary under the rules and a fresh disciplinary proceeding was unwarranted and not permissible once the earlier proceedings had culminated into the



award of a censure entry based on the same charge. It is therefore submitted that in terms of Rule 29 of the 1955 Rules, the entire proceedings are vitiated, which aspect does not appear to have been appropriately construed by the learned single Judge. Hence, the impugned judgment deserves to be set aside and the punishment order also deserves to be quashed.

7. We have considered the submissions raised and also perused the record and what we find is that the award of censure entry dated 19th December, 2014 was not questioned by the appellant before any authority or even before this Court in the writ petition giving rise to this appeal. What was pleaded was that since the said order had become final, therefore, the disciplinary proceeding could not be initiated and the procedure for enhancement of punishment could have been followed only under the rules and not by initiation of a fresh disciplinary proceeding.

8. The aforesaid argument on behalf of the appellant cannot be accepted, inasmuch as, firstly the appellant himself has chosen to accept the punishment of censure entry which was based on the very same charges of the attempt to misappropriate 40 ground sheets. As a matter of fact, once the appellant had not challenged the order of the minor punishment awarded to him, there was no necessity of proving the same charges once again, but



it appears that in all fairness, the appellant was provided with another opportunity in the disciplinary proceedings to disprove the same. In our opinion, if something superfluous has been done by the respondent-authority, the same does not in any way violate the procedure inasmuch as this is a case where the appellant may have been entitled to only a show cause notice before enhancement, but he was given a better and a more fair opportunity to defend himself by conducting the proceedings and holding an enquiry. No prejudice therefore has been caused by adopting of this procedure and any alleged violation thereof, therefore does not amount to any violation of the principles of natural justice or being an act not in conformity with the rules.

9. The appellant, as noted above, did not even choose to challenge the order dated 19th December, 2014 in the writ petition before this Court as well. Consequently, the charge alleged against him is almost proved and established in the background aforesaid and consequently, we do not find any fault in the conclusion arrived at either by the disciplinary authority in respect of the guilt relating to the charges or by the revisional authority by proceeding to pass a fresh order of removal of the appellant.

10. The learned single Judge after consideration of the entire matter has therefore, in our opinion, arrived at the correct



conclusion and consequently, the same does not call for any interference in appeal. The appeal lacks merit and it is, accordingly, dismissed.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

PNM

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