

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12697 of 2016

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Santosh Kumar Son of late Kamalijeet Prasad Resident of Village- Gaighat,
P.S. Simri, District Buxar.

... .. Petitioner

Versus

1. The Union Of India through the Director General of Police, Central Reserve Police Force, New Delhi.
2. The Inspector General of Police, CRPF, Ranchi Jharkhand.
3. The Deputy Inspector General of Police, CRPF, Dhurwa, Ranchi Jharkhand.
4. The Commandant, 114 Battalion, CRPF, Udaipur (South Tripura)
5. The Commandant, 114 Battalion ,CRPF, Lidren Camp Jalandhar, Punjab.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Alok Kumar Sinha, Senior Advocate Mr. Bhola Kumar, Advocate Mr. Ashish Sinha, Advocate
For the Respondents	:	Mr. S.D Sanjay Addl. Soc. Gen. Mr. Kumar Priya Ranjan,C.G.C.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 28-08-2019 This writ application has been filed seeking quashing of an order, dated 31.03.2015, passed by the Deputy Inspector General of Police, Central Reserve Police Force (CRPF), Dhurwa, Ranchi, Jharkhand. The order, dated 31.03.2015, has been confirmed by an order, dated 21.09.2015, passed by the Inspector General of Police, CRPF, Ranchi, Jharkhand, which is also being challenged in the present writ application.

2. This is to be noticed that the petitioner was working as Constable (G.D.) in CRPF and he was dismissed from service by the order of the disciplinary authority, dated 01.12.2006. Against the said order he had preferred an appeal and revision



before the appellate authority and revisional authority, which were dismissed. Being aggrieved, the petitioner had approached this Court by filing writ petition, giving rise to C.W.J.C. No. 238 of 2012, which came to be disposed of by an order dated 08.12.2014. This Court did not interfere with the order of the disciplinary authority nor with the order passed by the appellate authority and the revisional authority.

3. The petitioner's case was that he had resonable explanation for overstaying his leave. This Court allowed him one more chance to present his case before the appellate authority. It was indicated that in case he filed a fresh representation/appeal before the appellate authority explaining his overstayal, the same would be disposed of within a period of three months.

4. It is in the light of the order of this Court that the petitioner appears to have approached the appellate authority. The appellate authority by a reasoned order, dated 31.03.2015, after discussing relevant aspects of the matter, has recorded his finding that the punishment awarded by the disciplinary authority was fully justified and commensurate with the gravity of the offence committed by him. The petitioner had overstayed his leave by nearly 50 days. Against the said order of the



Deputy Inspector General of Police, CRPF, Ranchi, Jharkhand (Appellate Authority), the petitioner had filed a revision application under Rule 29 of the Central Reserve Police Force Rules, 1955, which has been dismissed by the Inspector General of Police, CRPF, Ranchi (Revisional Authority) by order dated 21.09.2015.

5. A question of territorial jurisdiction of this Court has arisen as both the orders impugned have been passed by the officers having their headquarters beyond the territorial jurisdiction of this Court.

6. Mr. Alok Kumar Sinha, learned Senior Counsel appearing on behalf of the petitioner, however, contends that since this Court had earlier entertained the petitioner's writ application, the present writ application may not be dismissed on the ground of lack of territorial jurisdiction.

7. Though counter affidavit has been filed on behalf of the respondents, plea of lack of territorial jurisdiction has not been taken.

8. In the background of stand taken on behalf of the parties, I have proceeded to decide this case on merits.

9. It is evident that the petitioner has been held guilty in a departmental proceeding of having overstayed beyond the



period of leave. The finding of the disciplinary authority of the petitioner's guilt of misconduct was not interfered with by this Court while disposing of petitioner's writ application, being C.W.J.C. No. 238 of 2012 by order dated 08.12.2014. This Court, in such circumstance, cannot look into the correctness of the said finding in the present proceeding. This Court had allowed the petitioner an opportunity to convince the appellate authority, justifying the circumstance in which he had overstayed his leave. The petitioner availed the said remedy. The appellate authority has elaborately dealt with the justification supplied by the petitioner and has recorded his conclusion that the punishment of dismissal from service awarded by the disciplinary authority writ application was fully justified and commensurate with the gravity of the offence committed by him. The view of the appellate authority has been confirmed by the revisional authority.

10. Mr. Sinha, learned Senior Counsel appearing on behalf of the petitioner, has relied on a decision of the Supreme Court in case of *Union of India and Others vs. Giriraj Sharma* (AIR 1994 SC 215), to submit that dismissal from service is too harsh a punishment on the charge of overstaying. He has submitted that a lenient view ought to have been taken by the



authorities in the matter of imposition of punishment.

11. Mr. S.D.Sanjay, learned Additional Solicitor General of India, appearing on behalf of the respondents, has contended that CRPF, being a disciplined Para Military Force, overstayal by a member of the Force is a serious misconduct and dismissal from service in such cases cannot be said to be pricking the Court's conscience for interfering with the decision of the disciplinary authority on the point of punishment. He has submitted that the quantum of punishment cannot be said to be disproportionate to the misconduct proved against the petitioner.

12. I do not find any reason to interfere with the impugned order. In the order, dated 08.12.2014, passed by this Court in C.W.J.C. No. 238 of 2012, this Court had left it open for the appellate authority to consider the petitioner's case if he could satisfy the appellate authority that a lesser punishment could be imposed, in place of the punishment of dismissal from service. This Court did not find the punishment, so imposed, to be so excessive and disproportionate to the proved misconduct as would have pricked the Court's conscience, requiring interference with the impugned action.

13. In case of *Union of India (UOI) vs. P. Gunasekaran*, reported in (2015) 2 SCC 610, the Supreme



Court has reiterated the legal principle that the High Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot go into the proportionality of punishment so long as the punishment does not shock the conscience of the Court.

14. A decision qua the nature and quantum of punishment is prerogative of the disciplinary authority, the Supreme Court held in case of *Chief Executive Officer, Krishna District Cooperative Central Bank Ltd. and Ors. vs. K. Hanumantha Rao and Ors.*, reported in (2017) 2 SCC 528, and observed that only in exceptional circumstances, where it is found that the punishment/penalty awarded by the disciplinary authority, that too to an extent that it shakes the conscience of the Court that the Court steps in and interferes.

15. The Supreme Court has lucidly explained and reiterated the doctrine of reasonableness and proportionality propounded, in cases of *Associated Provincial Picture Houses Ltd. v Wednesbury Corporation*, [1948] 1 KB 223, and *Council for Civil Services Union v. Minister of Civil Service*, (1984) 3 All ER 935, in its decision in case of *V. Ramana vs. A.P.S.R.T.C. and Ors.*, reported in (2005) 7 SCC 338, and has held in paragraph 11 as under : -

“11. The common thread running through in all



these decisions is that the Court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in the *Wednesbury's* case (supra) the Court would not go into the correctness of the choice made by the administrator open to him and the Court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision.”

16. After having held, as noted above, the Supreme Court has concluded in paragraph 12 in case of *V. Ramana* (supra) as under :

“12. To put differently unless the punishment imposed by the Disciplinary Authority or the Appellate Authority shocks the conscience of the Court/Tribunal, there is no scope for interference. Further to shorten litigations it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof. In a normal course if the punishment imposed is shockingly disproportionate it would be appropriate to direct the Disciplinary Authority or the Appellate Authority to reconsider the penalty imposed.”

17. Having considered judicial pronouncements, as noted above, in my opinion, once the appellate authority and the revisional authority have reconsidered the petitioner's case and found imposition of punishment of dismissal from service as appropriate in the facts and circumstances of the case, this Court



can not substitute its own opinion, in place of the opinion of the disciplinary authority, appellate authority or the revisional authority, exercising power of judicial review under Article 226 of the Constitution of India.

18. I do not find any merit in this application. This application is accordingly dismissed.

(Chakradhari Sharan Singh, J)

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