

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7780 of 2016

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Shambhu Prasad Singh, S/o Late Ramudgar Singh, R/o Village- Ayodhaya,
P.O.- Teghara, P.S.- Teghara, Dist.- Begusarai, Constable No. 851230140,
CISF

... .. Petitioner

Versus

1. The Union of India through Ministry of Home Affairs, New Delhi.
2. The Director General of Police, CISF, New Delhi.
3. The Inspector General of Police, CISF, CISF Office Compound, East Zone
Headquarter, Boring Road, Patna.
4. The Deputy Inspector General of Police, CISF, CISF Unit, Bhakokoli, P.O.-
Koilanagar, Dist.- Dhanwad (Jharkhand)
5. The Senior Commandant, CISF Unit, Bhakokoli, Dist.- Dhanwad Jharkhand.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Sanjay Kumar, Advocate
For the Respondent/s	:	Mr.S.D Sanjay Addl. Soc. Gen. Mrs. Punam Kumari Singh, C.G.C. Mrs. Priya Gupta, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 24-07-2019

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

2. In this case, the petitioner is challenging the order
of punishment dated 08.07.2015 passed by the Senior
Commandant, CISF (BCCL), Dhanbad, whereby and
whereunder the pay of the petitioner has been reduced by one



stage for two years as also directed that it would cause an adverse impact in his increment of pay.

3. The petitioner, at the relevant time, was posted as G.D. Constable at N.T.P.C. Barh, Patna. His duty was at Gate No.1 i.e. Labour Gate. One Ranvir Kumar, lodged a complaint before the Assistant Commandant *inter alia* alleging that he is a contract labour was intercepted by the petitioner and asked him to pay Rs.50/-, when he has shown his inability, in turn, the petitioner asked him to bring the money after selling iron rod of N.T.P.C. It has further been alleged that the petitioner kept his lunch box and assured to return the same on payment of the said amount. Whereafter, the petitioner was transferred as G.D. Constable in the B.C.C.L. Dhanbad, there the departmental proceeding was initiated with regard to two charges; first charge, to demand of Rs.50/- from the contract worker and when the labourer shown his inability, his lunch box was kept by him and asked the labourer to bring the money after selling iron materials of the N.T.P.C. and second charge is that after receipt of the complaint a surprise inspection was made and it was found that in the register the petitioner has recorded that he was keeping Rs.50/- in his pocket, but a polythene was recovered from a drain, from where Rs.420/- was recovered.



Whereafter, the petitioner was asked to file his explanation. The Disciplinary Authority did not satisfy with the explanation of the petitioner, accordingly, the Inquiry Officer as well as the Presenting Officer was appointed.

4. This Court has asked learned counsel for the Union of India to produce the record of the departmental proceeding with respect to the present petitioner, which has been produced by learned counsel for the Union of India for perusal of this Court, this Court has examined the record of the departmental proceeding, from where it appears that time to time the Disciplinary Authority has given notice to the petitioner as well as to the presenting Officer and the petitioner always participated in the proceeding as it bears his signature on different pages of the order-sheet. It also appears that the Enquiry Officer had given notice to the complainant, but even after great persuasion, the complainant did not appear to give his statement. The Enquiry Officer submitted the Inquiry report, found the charge no.1 not proved and charge no.2 has been found proved, ultimately, the punishment order has been passed. Against that the present petitioner filed appeal as well as Revision unsuccessfully.

5. Learned counsel for the petitioner submits that



when charge no.1 has not been proved, it is completely an utter surprise how the Inquiry Officer has recorded the finding that charge no.2 has been proved as both the charges are inter-connected, if one charge has not been proved then the second charge will also be treated to have failed.

6. Learned counsel for the Union of India submits that both the charges are not inter-connected as charge no.1 is arising from the complaint made by the contract worker, who has not turned up to make statement, whereas the charge no.2 is with regard to recovery of Rs.420/- when the petitioner has made entry in the register showing that he was keeping Rs.50/- in his pocket.

7. This Court in the judicial review will require to examine the decision making process not the decision. If the findings are based on reasonable materials, in such circumstance, the Court is not supposed to interfere with the order of punishment. This Court is not acting as an Appellate Authority, only in the event there is perversity in the finding and failure to follow the principle of natural justice, in such circumstance, the Court will interfere with the order of punishment. Reliance can be placed on the decision of the Hon'ble Supreme Court rendered in the case of **B.C.**



Chaturvedi vs Union Of India And Ors reported in ***1996 AIR 484*** and ***Union of India & Ors. v. P. Gunasekaran*** reported in ***(2015) 2 SCC 610***.

8. In the present case, this Court does not find any error in the order of punishment. This writ petition is devoid of any merit, accordingly, the same is dismissed.

(Shivaji Pandey, J)

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AFR/NAFR	N.A.F.R.
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