

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22553 of 2011

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Priti Kumari, Daughter of Sri Ram Chandra Singh Resident of Village And
P.O. Bihat, P.S. Barauni, District-Begusarai.

... .. Petitioner/s

Versus

1. The Union of India through the Ministry of Home Affairs, Government of India, New Delhi.
2. The Inspector General, Eastern Zone Headquarter, Central Industrial Security Force, Ministry Home Affairs, Eastern Zone Headquarters, Boring Road, Patna.
3. The Deputy Inspector General, Eastern Zone (Headquarter), Central Industrial Security Force, Ministry of Home Affairs, Eastern Zone Headquarters, Patna.
4. The Senior Commandant, Central Industrial Security Force, K.H.S. T.P.P., Kahalgaon, District-Bhagalpur.
5. The Commandant, Central Industrial Security Force, K.H.S. T.P.P., Kahalgaon, District-Bhagalpur.
6. The Assistant Commandant, Central Industrial Security Force, K.H.S. T.P.P., Kahalgaon, District-Bhagalpur.
7. The Inspector-Cum-Enquiry Officer, Central Industrial Security Force, K.H.S. T.P.P., Kahalgaon, District Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajit Kumar Singh, Adv.
For the Respondent/s : Mr. Anshuman Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 29-04-2019

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order vide letter no. 11170 dated 1.11.2011 (Annexure-10) passed by the Inspector General and the same was communicated to the petitioner through the Assistant Commandant through its letter no. 6785 dated 12.11.2011, whereby and whereunder, the revision petition dated 5.7.2011 submitted by the petitioner has been



rejected. Further prayer has been made for quashing the order dated 31.5.2011 (Annexure-8) contained in letter no. 4899 dated 31.5.2011 passed by the Deputy Inspector General, whereby and whereunder, the appeal filed by the petitioner against the dismissal order dated 15.4.2011 issued under the letter no.2004 dated 15.4.2011 passed by the Commandant has been rejected, thereby confirming the removal of the services of the petitioner. Further prayer has been made for quashing of the letter no.2004 dated 15.4.2011 (Annexure-6) passed by the Commandant by which the petitioner has been dismissed from service.

The petitioner was a Mahila Constable in Central Industrial Security Force (hereinafter to be referred to as 'CISF') posted at Kahalgaon in Super Thermal Power Plant, Kahalgaon. On 2.11.2010, she boarded in the Food Distribution Van of Mid-day along with one plastic bag keeping under the seat occupied by her. An allegation was made that she was carrying the electric pump of the Company through the Gate No.2 and, after inspection, when it was brought to the security gate, on interrogation, she took a plea that it was her private electric motor which she was carrying but, the fact is that it was a factory stolen electric motor and, whereafter, a charge-sheet was issued in which the allegation has been made that she was in duty in the first shift i.e. from 6 to 1.30



hrs. on 2.11.2010, after closer of the duty hour, she was returning on the Mid-day Food Distribution Van, kept electric motor under her seat, in which she was sitting, when the said van was checked at security gate no.2, the stolen electric motor was recovered by the In-charge Checking Officer. On that account, she was put under suspension and a departmental proceeding was initiated against her. In the departmental proceeding, she was represented by the defence representative, prosecution in support of the case examined altogether six witnesses, namely, Vishnu Dayal Ram, K.N. Ram, Shamsheer Singh, Pawan Kumar Yadav,, Mahesh Kumar Pathak, Sudist Prasad, Yogendra Kumar and Amit Kumar. Pawan Kumar Yadav was the driver and Samsheer Singh was the Conductor of the vehicle. Samsheer Singh has deposed that the petitioner had entered into the bus with a plastic bag and the same was kept under her seat, on gate no.2, Sudisht Prasad had made checking of the bus and from the beneath of her seat, the stolen electric motor was recovered and, thereafter, it was informed to the Commandant and proper action has been taken. The driver Pawan Kumar Yadav, at the initiate stage, had made a statement against the present petitioner of carrying the electric motor but, during departmental proceeding, he resiled from his earlier statement having stated that it is the Shamsheer Singh who had kept the



electric motor in the Van. He has further stated that when the vehicle was checked, in turn, recovery of the electric pump was made, he had requested with folded hand to leave him but, Sudisht Prasad, who had checked the vehicle, made a specific statement when he had entered into the Van, he made a checking but, no passenger was there either in the rear or frontal seat of Priti Kumari, one electric motor was kept under her seat, on interrogation, she stated that it is her personal motor but, later on, it transpired that it was stolen motor of the Company.

The present petitioner has also made a statement before the Enquiry Officer, has attributed the allegation against Shamsher Singh on account of the fact that Shamsher Singh had misbehaved earlier with her and she had made a complaint against him under certificate of posting, the statement of Pawan Kumar Yadav and the petitioner was taken into consideration, but did not give any credence to their statement, in the enquiry proceeding, every aspect of the matter has been dealt with by the Enquiry Officer, even why the statement of Pawan Kumar Yadav was not accepted, has been explained as well as the value of the complaint made by the petitioner against Shamsher Singh, which was addressed to the higher officer, was sent under certificate of posting in the year 2010 having stated, cannot be given credence, considering the



entire evidence in the shape of documentary and oral, recorded a finding against the petitioner that the charges have been proved against her. Against that, a show-cause was given to her which was replied and the Disciplinary Authority, after considering the evidence on record, passed an order and the same has been affirmed in the higher level.

Learned counsel for the petitioner submits that the Enquiry Officer has committed wrong in recording the findings against the present petitioner, when Pawan Kumar Yadav, in a specific term, has stated that it was Shamsheer Singh was carrying the electric motor then attributing the allegation against the petitioner is uncalled for but, the Enquiry Officer elaborately explained for not relying upon the statement of Pawan Kumar Yadav as has been explained in the enquiry as Pawan Kumar Yadav, in the earlier statement, when the recovery was made, had stated that the motor was being carried by Preeti Kumari, the petitioner and the petitioner had herself said that it was her electric motor, Enquiry Officer has explained why the credentials cannot be given to the statements of these persons.

This Court, in exercise of judicial review, is not acting as an appellate authority but, is required to see the decision making process not the decision. Exercising the secondary judicial review,



the Court can interfere when findings are perverse, as no person can arrive to such a finding, can interfere when the findings are based on no evidence or the materials which were required to be looked into have been left out or any material which was not required has been taken into consideration, finding recorded is against to the weight of evidence and the order of punishment is so excessive that no normal person would inflict such punishment. In this connection, reliance can be placed on the judgment in the case of B.C. Chaturvedi Vs. Union of India & Ors. reported in 1995(6)SCC 749, Union of India and others vs. P. Gunasekaran 2015 (2) SCC 610, Central Industrial Security Force Vs. Abrar Ali (2017) 4 SCC 507, S. Sreesanth Vs. Board of Control for Cricket in India & Ors. Reported in 2019 SCC OnLine SC 383.

Considering all aspects of the matter, this Court finds that the Enquiry Officer has examined every aspect of the matter from every angle and considered each and every defence taken by the petitioner and recorded the findings of proving of charge which is based on evidence, cannot be said that the findings are perverse. The Disciplinary Authority, Appellate Authority and the Revisional Authority have committed no wrong in passing the order of punishment.



This Court does not find any merit in the present writ application and the same is, accordingly, dismissed.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.05.2019
Transmission Date	

