

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.508 of 2018

In
Civil Writ Jurisdiction Case No.16809 of 2009

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Navin Chandra Pandit, Son of Sri Yamuna Pandit, Resident of Village-
Jahangira, P.O. Jahangira, P.S. Sultanganj, District Bhagalpur.

... .. Appellant/s

Versus

1. The Union Of India through Secretary, Ministry of Defence.
2. The Director General, Central Industrial Security Force, New Delhi.
3. The Deputy Inspector-General, Central Industrial Security Force, Eastern
Region, Head Quarter, Patna
4. The Group Commandant, Central Industrial Security Force, Group Head
Quarter, Patna.
5. The Deputy Commandant, C.I.S.F. Unit I.C.C. Barauni, Begusarai.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sandeep Kumar, Advocate Mr. Shivjee Singh, Advocate Ms. Priyanka Sinha, Advocate Mr. Mukesh Kumar, Advocate
For the Respondent/s	:	Mr. Anjani Kumar Sharan, A.I.G.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 01-03-2019

Re: I.A. No. 1 of 2019

After having heard learned counsel for the appellant,
we are satisfied that sufficient cause has been shown to condone
the delay in filing the appeal. The delay is condoned and the
appeal shall be treated to be within time.

2. I.A. No.1 of 2019 stands allowed accordingly.



Re: L.P.A. No.508 of 2018

Heard Shri Sandeep Kumar, learned counsel for the appellant.

2. The appellant was a member of the Central Industrial Security Force and he has been removed from service on the ground that he sought entry in the service on the basis of a fake caste certificate dated 12th of April, 2000. The charge was sought to be enquired into and upon the conclusion of the disciplinary enquiry, the Disciplinary Authority on 20th of May, 2009 passed an order of removal of the appellant. An appeal against the same was dismissed on 30th July, 2009. The appellant preferred a revision that was rejected on the ground of limitation without touching the merits of the case.

3. Learned counsel submits that the charge as actually enumerated in the charge-sheet was of an allegation of manufacture of the document that was not proved. There is no evidence so as to conclude that the document had been manufactured by the appellant. It is therefore the contention on behalf of the appellant that if the said charge has not been proved, then mere presumption about the document being fake cannot be treated to be a substitute for clinching proof. It is further submitted that the appellant belongs to the other backward category and the mention of his caste in the service book while he was serving in



the Army does not in any way reflect any other caste nor is there any such proof so as to indicate that the appellant does not belong to the other backward category. It is therefore submitted that once it is established that the appellant is of the other backward category, then in that event, the genesis of the charge about producing of a false certificate stands dissolved.

4. The disciplinary authority has recorded that when the complaint was received, a verification was made from the Sub-Divisional Officer, who is alleged to have issued the caste certificate to the appellant. The reply of the Sub-Divisional Officer dated 6th of June, 2008 categorically states that no such certificate was ever issued by his office. The disciplinary authority accordingly came to the conclusion that the appellant had succeeded in getting himself employed on the basis of a fake certificate and has accordingly ordered for his removal. The appeal also met with the same fate and the revision was dismissed as time barred.

5. It is the contention of the learned counsel for the appellant that in the absence of any proof to dislodge the status of the caste of the appellant and in the absence of any proof that the appellant had manufactured the document, the conclusion drawn by the disciplinary authority is erroneous. Hence, the order of



removal deserves to be set aside and the judgment of the learned single Judge should be reversed.

6. On the other hand, learned counsel for the respondent submits that the procedure was followed and after holding an enquiry on the basis of the material adduced it was found that the certificate was a fake certificate which could not be successfully rebutted by the appellant. In the background aforesaid the action taken does not suffer from any infirmity. It is urged that the appeal does not raise any question so as to warrant interference with the judgment of the learned single Judge.

7. In rejoinder, learned counsel for the appellant contends that the burden lay on the respondents to prove any allegation involving the appellant in the manufacturing of the caste certificate. For this reliance has been placed on the judgment of the Apex Court in the case of **Roop Singh Negi vs. Punjab National Bank & Ors. [(2009) 2 SCC 570]**, to contend that the enquiry report as well as the order of the disciplinary authority are both based on facts about which no proper proof was adduced and the officer who had issued the said certificate was not produced to prove the same.

8. We have considered the submissions raised and what we find is that in essence, the entire enquiry proceeding was with regard to the factum of the certificate having been produced by the



appellant that was relied on by him for the purpose of obtaining employment. The fact that the certificate was produced by him is nowhere denied. In such a situation, if the said fact stands admitted, then there was no burden on the respondent to have called the officer to prove that the certificate had not been issued. As a matter of fact, the communication from the officer dated 6th of June, 2008 was already on record and was part of the proceeding with which the appellant had been confronted. In such a situation, the burden had been discharged by the respondents and the onus had shifted on the appellant who could have contradicted the same. In the absence of any material in defence to rebut the aforesaid evidence, we do not find any error in the procedure of the enquiry so as to vitiate the proceedings.

9. The status of caste of the appellant may not have been disputed, but the fact remains that the furnishing of the certificate by the appellant remains uncontroverted, which has been ultimately found to be fake. The judgment in the case of **Roop Singh Negi** (supra) proceeded on the facts of the said case where the appellant in that case had been allegedly forced to sign a confession and there was no direct evidence or even indirect evidence in respect of the charge levelled against him. It is in this background that the Apex Court came to the conclusion that the enquiry report was based on mere *ipse dixit* and therefore the



proceeding was vitiated. The ratio of the said case is nowhere attracted on the facts of the present case where there was direct evidence in the shape of a communication received from the Sub-Divisional Officer clearly denying the very issuance of the certificate itself which had been made the basis of the application by the appellant.

10. The argument that the revision was dismissed without even considering the explanation for delay therefore does not call for any further examination by us as we have found that on the merits of the case that the charges against the appellant have been found to be proved.

11. In the background aforesaid, we do not find any merit in the appeal, which is accordingly rejected.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

PNM

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CAV DATE	N.A.
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