

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.177 of 2020

In
Civil Writ Jurisdiction Case No.22844 of 2019

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Amit Kumar Son of Sri Devendra Ram, Resident of Village/Mohalla and
P.O.- Dhangawan, P.S.- Jehanabad, District- Jehanabad.

... .. Appellant/s

Versus

1. Union of India through the Secretary, Home (Police) C.R.P.F., New Delhi.
2. Inspector General, C.R.P.F., New Delhi.
3. Deputy Inspector General, Delhi Region, C.R.P.F., R.K. Puram, New Delhi.
4. Commandant, 158 Battalion C.R.P.F., Lohardagga, Jharkhand.
5. Assistant Commandant, 158 Battalion, C.R.P.F., Lohardagga, Jharkhand.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Rajendra Prasad, Sr. Advocate Mr.Ritesh Kumar, Advocate Mr.Pramod Kumar, Advocate
For the Respondent/s	:	Mr.Kanak Verma, CGC

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 18-05-2023

In the instant LPA, the appellant has assailed the order of
the learned Single Judge dated 23.01.2020 passed in CWJC No.
22844 of 2019.

2. Brief facts of the case are that appellant was
appointed as Constable in the year, 2011. On certain domestic
issue the appellant submitted leave application from 24.06.2013 to
03.07.2013 and it was granted. Thereafter, without leave the



appellant remained unauthorise absent for more than three years for which the competent authority proceeded to invoke Section 11(1) of the Central Reserve Police Force Act, 1949 (for short 'Act, 1949'). Thereafter, he was dismissed from service.

3. Feeling aggrieved and dissatisfied with the same the appellant preferred appeal before the appellate authority and suffered an order. Hence, the appellant filed CWJC No. 22844 of 2019. Learned Single Judge rejected the writ petition while affirming the penalty.

4. Hence, the present LPA.

5. Learned counsel for the appellant vehemently contended that Section 11 of Act, 1949 deals with minor punishment. Once the initiation of the inquiry is for minor punishment in that event imposition of major penalty of dismissal from service was not warranted. The same was taken note of and the following order was passed on 04.05.2023:-

“Perusal of Annexure-9 dated 07.01.2016, by which article of charges were issued to the petitioner shows in all the three articles of charges, reference is under Section 11(1) of Central Reserve Police Force Act, 1949 (for short Act 1949). Section 11 deals with minor punishments. When the initiation of



enquiry is for minor punishment, how the respondents have invoked rule for major punishment like dismissal from service? On this issue, learned counsel for the respondent is hereby directed to apprise with relevant provision of law to the extent that in an event of initiation of enquiry for minor punishment whether it could be converted for major punishments like dismissal from service or not? One of the official respondents who is well conversant with the disciplinary matter shall be deputed to assist the respondent counsel on the next date of hearing.

2. Re-list this matter on 18.05.2023.”

6. Today, learned counsel for the respondents have apprised this Court. There were no classification of minor punishments and major punishments with reference to disciplinary proceedings. On the other hand, for certain heinous offences, there is a provision under Section 9. It is also pointed that Section 9 deals with the more heinous offences and Section 10 deals with less heinous offences. In other words, title of Section 9 onwards it is relating to offences and punishment we are concerned with the punishment. Punishment the only provision is Section 11. No doubt, title of Section 11 has been shown as minor punishment.



Whereas, reading of Section 11 it consist of major punishment as well as minor punishment. In other words, there is no classification of major punishment and minor punishment like more heinous offences and less heinous offences.

7. In the light of these facts and circumstances, the contention of the appellant that the appellant should have been awarded with minor penalty with reference to Section 11 is hereby rejected. That apart, Section 11 the heading is minor punishment. We are of the view that the word used in Section 11 as a minor punishment is misnomer it should have been simply punishments.

8. Learned counsel for the appellant submitted that he has not been provided opportunity of hearing before the inquiry authority. Perusal of the learned Single Judge order and the appellant has failed to produce any material to show that it was an ex-parte inquiry. In fact, the appellate authority has provided opportunity and the same has not been utilised by the appellant in attending the appeal proceedings.

9. In the light of these facts and circumstance, and the fact that appellant remained unauthorise absent for more than three years. That too in discipline force like Central Police Reserve Force. Question of interference in the major penalty of dismissal



from service read with the order of the learned Single Judge is not warranted.

10. Accordingly, the present Letters Patent Appeal No. 177 of 2020 stands dismissed.

(P. B. Bajanthri, J)

(A. Abhishek Reddy , J)

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AFR/NAFR	NAFR
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