

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1737 of 2018

In
Civil Writ Jurisdiction Case No.5837 of 2013

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1. The Union Of India through the Secretary, Ministry of Home Affairs, Central Secretariat, North Block, New Delhi
 2. The Director General, CISF, Ministry of Home Affairs, CGO Complex, Lodhi Road, New Delhi
 3. The Inspector General, CISF Office Complex, CISF Head Quarters, Eastern Sector, Boring Road, Patna
 4. The Deputy Inspector General, CISF Unit RSP Rourkela, Sundergarh (Orissa)
 5. The Senior Commandant, CISF Unit RSP Rourkela, District Sundergarh (Orissa)

... .. Appellant/s

Versus

Kanwar Singh Son of Shri Banwari Lal Resident of Village- Khatoli Ahir,
P.O.- Kamania, Tehsil Narnaul, District- Mahendragar Haryana

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anshuman Singh, Advocate

For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 24-07-2023

Heard learned counsel for appellants. No one appears



on behalf of the respondent.

2. The instant appeal has been preferred against the order dated 27.6.2018 passed in C.W.J.C no. 5837 of 2013.

3. The case of the writ petitioner-respondent in brief is that a lady constable namely, Champa Hui filed a complaint to the effect that having obtained leave, while she was travelling by train to her home, the writ petitioner and four others misbehaved with her and used indecent and undignified language against her in presence of other passengers. She further stated that they were drunk, used indecent language and also abused her. They tried to touch her on which she started to weep.

4. A preliminary enquiry was conducted by the department and a decision to initiate a departmental proceeding against the writ petitioner was taken. Two charges were framed and the department in support of the charges examined five witnesses. The charges were found proved and by order dated 12.2.2010, the Senior Commandant, CISF (Disciplinary Authority) imposed the punishment of removal from service on the writ petitioner. The appeal preferred by him was dismissed by the D.I.G, CISF on 13.5.2010 and the revision preferred by him was dismissed by the I.G, CISF on 29.9.2010.



5. The writ petitioner preferred C.W.J.C no. 5837 of 2013 which was disposed of by the learned Single Judge in the following terms:-

“14. This Court after going through materials available on record i.e. complaint by Fax (Exhibit-1) statement of complainant during preliminary enquiry Exhibit-2 as well as her deposition as PW-1 could not find much difference in nature or gravity of misconduct committed by petitioner or other constable Rajiv Budhwar and others and parity in Disciplinary Action/punishment has to be maintained. The counter-affidavit on this aspect is evasive and it has not been stated whether other four constables have been departmentally proceeded and imposed any punishment or not.

15. The orders passed by Departmental Authorities were fit to be quashed on this score only but looking at the nature of charge this Court is not inclined to interfere in the order of holding petitioner guilty of charge but the matter is remitted to the Revisional Authority (Respondent No. 3) to reconsider the quantum of punishment and to impose similar punishment upon petitioner as has been imposed upon Rajiv Bhudwar and three others against whom also complainant has levelled similar allegation. If no departmental proceeding has been initiated against these four and they have been absolved then petitioner has to be also given similar treatment.

16. The respondent will pass a fresh order after reconsidering the quantum of punishment and will treat petitioner similarly vis-a-vis treatment meted out to



other 4 constables within three months from date of receipt/production of a copy of this order.

17. With the said observation and direction, this writ petition is disposed of

18. The Original record of the departmental proceeding produced by the Central Government counsel for perusal of this Court is directed to be returned to him.”

6. It is against this order that the instant appeal has been preferred by the respondent-appellants.

7. It is submitted by learned counsel appearing for the appellants that there was no irregularity or illegality in the departmental proceeding conducted against the respondent. In the armed force like the CISF, discipline has to be given paramount importance and the disciplinary authority having agreed with the findings of the Enquiry Officer rightly awarded the punishment of removal from service with immediate effect on the respondent. The order of punishment was upheld by the appellate and the revisional authorities. It was finally submitted that even in case the learned Single Judge came to the conclusion that the matter required to be remitted to the revisional authority, the said order of remand should not have been conditional, instead it should have been left to the revisional authority to pass orders afresh in accordance with



law.

8. Having heard learned counsel for the appellants and from the material on record, it transpires that the complaint filed by constable Champa Hui was to the effect that while she occupied her reserved berth in the train, the four persons namely Rajeev, Amit, Narendra and the respondent Kanwar Singh came there and misbehaved with her. Accordingly, she made her complaint by sending the fax to the Commandant which was followed by the departmental proceeding in which the respondent was held guilty and was imposed with the punishment of removal from service on 12.2.2010.

9. It further transpires that the department did not initiate departmental proceeding against all the constables inspite of the fact that the allegations of outraging her modesty was against all, but the same was started only against the respondent. The learned Single Judge was of the opinion that inspite of the four constables having committed similar misconduct, the respondent could not have been singled out in the departmental proceeding and imposed the punishment of removal from service while the others were absolved. The learned Single Judge further referring to the statement of the complainant during preliminary enquiry as well as her



deposition opined that he could not find much difference in the nature of gravity of misconduct committed by the respondent and others.

10. By order dated 27.6.2018, the learned Single Judge observed that from the counter affidavits it was not clear as to whether the other constables had been proceeded departmentally or not. Looking into the nature of charge and the materials on record, the learned Single Judge did not interfere in the order holding the respondent guilty but remitted the matter to the revisional authority to reconsider the quantum of punishment to impose similar punishment upon the respondent as has been imposed upon the three others against whom also the complainant had levelled similar allegations.

11. This Court having perused the material on record and having considered the submissions made, does not find any illegality in the order of the learned Single Judge when he directs for parity in punishment awarded to the respondent as also the three others, who were similarly situated. So far as this part of challenge to the order of the learned Single Judge is concerned, the Court finds no merit in the same. However, it is clarified that the order of the learned Single Judge shall not be construed by the appellants to be a direction to proceed against



the three others.

12. With the above observations, the writ application stands dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	N/A
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