

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18926 of 2010

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DHARMENDRA GUPTA S/O Sri Nanhak Gupta R/O Vill.- Kodyar, P.O.-
Purahara , P.S. - Chouri , Distt.- Bhojpur

... .. Petitioner/s

Versus

1. THE UNION OF INDIA and ORS Ministry Of Home Affairs, New Delhi.
2. The Inspector General Central Industrial Security Force, C.I.S.F. Office Complex , Boring Road, Patna - 13 Bihar
3. The Deputy Inspector General C.I.S.F., C.I.S.F. Unit B.C.C.L. Dhanbad, Jharkhand.
4. The Senior Commandant C.I.S.F. Unit, Dhanbad, Jharkhand.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Siddhartha Prasad, Advocate
		Mr.Om Prakash Kumar, Advocate
For the Respondent/s	:	Mr.Praveen Kr. Sinha, Sr. Panel Counsel

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 26-06-2023

In the instant petition, petitioner has prayed for the following relief(s):-

“(i) For issuance of a writ in the nature of Certiorari for quashing of the order contained in letter no. V-11015/ES/LC/Rev-32/2009/2514 dated 03 March, 2010 passed by the respondent no. 2 by which the respondent no. 2 has rejected the Revision Petition filed by the petitioner.

(ii) For issuance of an appropriate writ for quashing of the order contained in letter no. B-15014/Ke. Au. Su. Ba. / Bha. Ko. Ko. Li. / Anu. /DKG / 2009-10889 dated 30/09/2009 passed by the respondent no. 3 by which the respondent no. 3 has rejected the Appeal filed by the petitioner.



(iii) For issuance of an appropriate writ for quashing of the order contained in letter no. B-15014/Ke. Au. Su. Ba. / Bha. Ko. Ko. Li. / Anu. /DKG / 2009-3632 dated 22/06/2009 passed by the respondent no. 4 by which, by way of punishment the petitioner has been removed from the service with immediate effect.

(iv) For issuance of an appropriate writ directing and commanding the respondents to give the petitioner all consequential benefits after quashing the aforesaid orders.

(v) For any other relief or reliefs of which the petitioner is legally entitled to.”

2. The petitioner was appointed as a Constable in the Central Industrial Security Force which is a discipline force, he was subjected to disciplinary proceedings in framing charges on 10.02.2009. Charges are that he had suppressed pendency of criminal case lodged against the petitioner under Section 498A of Cr.P.C. Further, he overstayed for 189 days during the intervening period from 10.11.2008 to 17.05.2009. The petitioner had submitted his explanation on 05.03.2009, the inquiring authority was not satisfied with the petitioner's explanation and proceeded to appoint the inquiry officer. Inquiring Officer has submitted his report on 21.05.2009. It was an *ex parte* inquiry, since the petitioner failed to co-operate in the inquiry. Based on the inquiring officer's report dated 21.05.2009, disciplinary authority



proceeded to issue a show-cause notice along with the Inquiring Officer's report seeking petitioner's explanation. Thereafter, penalty of removal of service was ordered on 22.06.2009. The petitioner feeling aggrieved and dissatisfied with the order of penalty preferred appeal and revision in both the proceedings he had suffered orders. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that the petitioner could not attend the duties in the light of criminal proceedings lodged against him and there were threat for him to arrest. On the other hand, it is stated that he had obtained anticipatory bail. It is further submitted that the petitioner was admitted to the hospital during the intervening period from 06.04.2009 to 11.05.2009, it has resulted in *ex parte* inquiry. Therefore, it is a case of remand to the disciplinary authority to proceed with the inquiry afresh.

4. *Per contra*, learned counsel for the respondents resisted the aforesaid contentions and submitted that despite providing number of opportunities, the petitioner has failed to appear before the inquiring authority. Further not even a single communication has been made by the petitioner to the inquiring authority to accommodate time. On the other hand, petitioner was



kept on making communication for grant of leave for his absence period.

5. At this stage, learned counsel for the petitioner submitted that respondents have taken extraneous material insofar as conduct of the petitioner to the extent that he remained unauthorized absence on an earlier occasion and he was punished, therefore, extraneous material could not have been taken by the concerned disciplinary authority.

6. Heard learned counsel for the respective parties.

7. Time and again, Courts have held that Writ Courts cannot interfere with the merits of the disciplinary proceedings. Unless and until perverse evidence is produced in the inquiry proceedings. The present case is relating to suppression of pendency of criminal case and overstayed for 189 days. The petitioner being a Constable in the discipline force like Central Industrial Security Force, he should have been alert and disciplined while discharging the duties of the post. On the other hand, he had applied for leave for some days and it was granted. Thereafter, the petitioner had disappeared in other words he had overstayed for 189 days during the intervening period from 10.11.2008 to 17.05.2009. The petitioner had produced medical certificate for the intervening period from 06.04.2009 to



11.05.2009 for remaining period he has not produced any material as to why he remained unauthorized absent. That apart the petitioner has failed to give his response to the inquiring authority and communication for his appearance. On the other hand, the petitioner was kept on submitting letters to the Disciplinary Authority/Appointing Authority for grant of leave for various periods.

8. Petitioner submitted that the Disciplinary Authority has taken extraneous material to the extent that earlier he was subjected to disciplinary proceedings for remaining unauthorized absent and he was punished. Even it is excluded or ignored or side track in the present proceedings unauthorized absent of 189 days is a serious misconduct in a discipline force like Central Industrial Security Force. The petitioner has not raised any other ground so as to interfere with the impugned orders.

9. Accordingly, the present writ petition stands dismissed.

(P. B. Bajanthri, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.07.2023
Transmission Date	NA

