

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.909 of 2017

In

Civil Writ Jurisdiction Case No.4508 of 2009

=====

A. K. Pandey @ Ajit Kumar Pandey S/o B.K. Pandey resident of village
Meharpur, Baraini, P.S. Pirpati, District – Bhagalpur. Appellant/s
Versus

1. The Union Of India
 2. The Inspector General, Central Industrial Security Force, C.I.S.F. Complex,
Boring Road, Patliputra
 3. The Deputy Inspector General, Central Industrial Security Force, Eastern
Zone, Head Quarter, Patna.
 4. The Commandant, Central Industrial Security Force, D.M. Battalian
Mundali Orissa.
 5. The Enquiry Officer, D.M. Mundali Orissa.
- Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Saghir Ahmad, Advocate
For the Respondent/s : Mr.S.D Sanjay Addl. Soc. Gen.

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 07-10-2023

The present appeal has been preferred against the order dated 26.04.2017 passed by the Hon'ble Single Judge in CWJC No. 4508 of 2009 by which the writ petition has been dismissed after observing that nothing has been brought to the notice of the Court showing any illegality in the decision making process and as no such interference is required.

2. The facts leading to the present case is/are as follows:



3. The petitioner was appointed as a Constable with the Central Industrial Security Force (henceforth for short 'the C.I.S.F.') and accordingly he submitted his joining on 01.04.1989 at Sindri, Dhanbad (now Jharkhand).

4. Allegation against him is that on 01.04.2006, while being posted at Duliajan, he had a fight with Head Constable, B.K. Oraon and both threatened each other of dire consequences.

5. As it was unbecoming of a disciplined force, the petitioner was put under suspension on 20.04.2006 in contemplation of departmental proceedings vide an order dated 20.04.2006 issued by the Office of the Senior Commandant, C.I.S.F., D.M. Battalion, Mundali, Ranchi (Jharkhand).

6. Thereafter, memorandum of charges was issued on 07.07.2006 by the Disciplinary Officer cum Commandant, C.I.S.F., DM Battalion, Mundali, Ranchi which read as follows:

Charge No. 1

While being posted at Duliajan, on 01.04.2006, he stated that B.K. Oraon has threatened him and the government has given him weapon and 100 rounds which he can also use.

Charge No. 2

He was engaged in verbal abuse with B.K. Oraon, the Head Constable.



Charge No. 3

despite having been served with one major punishment and 11 minor punishments during his service career, he failed to change his conduct unbecoming of a disciplined force.

7. In the Departmental proceedings, the witnesses examined were:

- (i) **PW1**- K.N Sahi who acknowledged the quarrel between the appellant-petitioner and B.K. Oraon;
- (ii) **PW2**- G.D. Prasad who deposed that the appellant-petitioner stated that if anyone threatens him, he will not let him go as the Government has issued him weapon and 100 rounds;
- (iii) **PW4**- Tapash Mandal who also gave statement about the fight that occurred;
- (iv) **PW5**- R.D. Tung who denied there having been any fight;
- (v) **PW6**- Rajendra Singh who acknowledged the fight;
- (vi) **PW7**- Head Constable Kuldeep Singh who gave the same statement as that of PW2 which talked about his possession of government weapon and 100 rounds;



- (vii) CW- A.K. Mallick who informed that from perusal of his service records, it was found that during his service period, he has been served with one major punishment and 11 minor punishments;
- (viii) B.K. Oraon with whom the appellant-petitioner quarrelled appeared as a Defence witness and denied any quarrel between them;
- (ix) Lastly, the appellant-petitioner himself who too denied the charges.

8. The Enquiry Officer thereafter came to the conclusion that charges made in Articles (1) and (3) were proved while exonerating him of charge no. 2.

9. The Disciplinary Authority thereafter carefully examined the entire records and passed an order dated 13.02.2017 for his dismissal from Service. (Annexure-1 to the writ petition).

10. Being aggrieved with the order dated 13.02.2007, an appeal was preferred before the Deputy Inspector General, Eastern Zone, Patna which came to be rejected on 29.05.2007 (Annexure-2).

11. The Appellate-Authority in his order dated 29.05.2007 after detailing out the entire facts came to a definite conclusion that:



(i) from the sequence of events, it is an established fact that there was hot altercation between the appellant and Head Constable, B.K. Oraon;

(ii) however, due to the hostile statement of the complainant, Head Constable, B.K. Oraon, the Charge II could not be established;

(iii) as Head Constable, B.K. Oraon himself was facing major proceedings, he turned hostile;

(iv) however, article of Charge-III was fully established;

(v) the appointee (appellant herein) during his service career was punished 12 times by different authorities.

12. The appellate-authority thus concluded that:

(i) the appellant has been punished on well proven misconduct and there is no flaw in the departmental proceedings;

(ii) there was no denial of natural justice;

(iv) thus there is no cogent reason to interfere with the punishment awarded by the disciplinary authority;



(v) the appeal being devoid of merit is rejected.

13. Aggrieved by the order dated 29.05.2007 passed by the D.I.G, Eastern Zone, revision petition was preferred before the Inspector General, C.I.S.F. which too was dismissed on 23.05.2008.

14. The reason given by the Revisional Authority in its order dated 23.05.2008 read as such:

(i) there is no perversity in the proceedings;

(ii) the disciplinary authority has well appreciated/evaluated the evidences during the proceedings;

(iii) the charge of threatening by the appellant that the Government has also given him rifle and 100 rounds which may be used by him against Head Constable, B.K. Oraon has been proved during enquiry;

(iv) there is no flaw in the departmental proceedings;

(v) Charges no. I and III have been proved;

(vi) the article of charge no. III speaks



about him being awarded 12 punishments during his service career;

(vii) he was given maximum opportunity to mend his conduct and come to mainstream of discipline but he failed to improve upon himself.

15. The Revisional Authority thus rejected the revision application holding that such a person may cause serious situation which may be subversive to the discipline of the force.

16. Aggrieved, CWJC No. 4508 of 2009 was preferred with the following prayers:

(i) for quashing of the order dated 13.02.2007 (Annexure-1) passed by the Commandant, CISF (respondent no. 4) by which he was dismissed from the service;

(ii) for quashing of the order dated 29.05.2007 (Annexure-2) by the D.I.G., CISF (the respondent no. 3) by which the appeal was rejected;

(iii) for the quashing of the order dated 23.05.2008 passed by the I.G., C.I.S.F., by which the revision petition too was rejected.

17. The respondents appeared in the writ petition and filed their respective affidavits.

18. The matter was finally taken up by the Hon'ble



Single Judge on 26.04.2017 and after hearing the parties and perusing the records of the case, it dismissed the writ petition holding as follows:

“ Besides hearing learned counsel for the parties, I have perused the materials available on record. On perusal of the order of the disciplinary authority I do not find any error in the procedure which was adopted in the proceeding against the petitioner. In the departmental proceeding petitioner was provided full opportunity and thereafter, final order of punishment was passed. At this stage it would be appropriate to quote paragraph no. 13 of the Coal India Limited Case (Supra) on which reliance was heavily placed by learned counsel for the petitioner, which is quoted hereinbelow:-

"13. It has been time and again said that it is not open to the High Court to examine the findings recorded by the inquiry officer as a court of appeal and reach its own conclusions and that power of judicial review is not directed against the decision but is confined to the decision-making process. In a case such as the present one where the delinquent admitted the charges, no scope is left to differ with the conclusions arrived at by the inquiry officer about the proof of charges. In the absence of any procedural illegality or irregularity in conduct of the departmental enquiry, it has to be held that the charges against the delinquent stood proved and warranted no interference."

On perusal of aforesaid observation of the



Hon'ble Apex Court it is evident that while exercising power of judicial review this Court is required to confine only to the extent as to whether in the decision -taking process any error was committed or not. Since nothing has been brought to the notice of the Court regarding any illegality in taking decision, it would be difficult for this Court to interfere with either of the orders. Accordingly, I do not find any ground to pass favourable order.

9. The writ petition stands dismissed.”

19. Still aggrieved, the present appeal.

20. We have heard the learned Counsel for the appellant-petitioner at length and have also gone through the order passed by the respondent authorities as also the observations made by the Hon'ble Single Judge while dismissing the writ petition.

21. While detailing out the reasons for the dismissal of the writ petition, the Hon'ble Single Judge quoted the observations of the Hon'ble Apex Court in the case of **Chairman cum Managing Director, Coal India Limited and Another vs Mukul Kumar Chaudhary & Ors** reported in **(2009) 15 SCC 620** wherein it was observed that the power of judicial review is not directed against the decision but is only confined to the decision making process.

22. We too do not see any error in the procedure adopted by the respondents. The appellant-petitioner was



provided opportunity in the departmental proceeding which followed the final order as also the orders passed by the Appellate Authority/Revisional Authority.

23. This Court thus is in complete agreement with the observations made by the Hon’ble Single Judge. The appellant-petitioner with one major punishment and 11 minor punishments under his belt during the entire service career has failed to point out neither any procedural lapse in the decision making process nor any grounds for mitigation in the penalty imposed.

24. No interference is required in the order dated 26.04.2017 passed by the writ Court in CWJC No. 4508 of 2009.

25. The appeal lacks merit and is accordingly dismissed.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Jagdish/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.10.2023
Transmission Date	

