

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3574 of 2018

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Ajit Kumar Singh, S/o Late tribeni Singh, R/o Vill-Mahuali, P.O.-Mahuli,
P.S.-Ara Muffail, District-Ara at Bhojpur.

... .. Petitioner/s

Versus

1. The Union Of India through the Director General of Police, Central Reserve Police Force, C.G.O. Complex, New Delhi.
2. The Director General of Police, Central Reserve Police Force, C.G.O. Complex New Delhi.
3. The Inspector General of Police, Central Reserve Police Force, Bihar, Sector, Ashiana Mod, Patna.
4. The Deputy Inspector General of Police, Group Center, Central Reserve Police Force Muzaffarpur.
5. The Commandant, Group Center, Central Reserve Police Force, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Verma, Adv.
For the UOI	:	Mr. Awadhesh Kumar Pandey Sr. C.G.C. Mr. Rakesh Kumar Sinha, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 19-12-2023

Heard learned counsel for the petitioner and learned
counsel for Union of India.

2. The present writ petition has been filed for
quashing the order no.01/2016 dated 06.10.2016 passed by the
Commandant, Group Center, Central Reserve Police Force,
Muzaffarpur annexed as Annexure-1, further to quash the
Appellate Order no.03/2016 dated 28.11.2016 passed by the
Deputy Inspector General of Police, Group Center, Central



Reserve Police Force, Muzaffarpur annexed as Annexure-2 and lastly to quash the Revisional Order dated 10.02.2017 issued by the Inspector General of Police, Bihar Sector, Central Reserve Police Force, Patna annexed as Annexure-3 and further prayer has been made to direct the respondent to re-instate the petitioner on the post of Constable (G.D.) with all his consequential benefits.

3. Learned counsel for the petitioner submits that the petitioner was appointed on the post of Constable in Central Reserve Police Force, in the year 2003 and he joined Group Center in Mokama Ghat, Patna and had completed his training in 50 Battalion, Silchar, Assam. Counsel also submits that after several transfer and posting at different places in India, the petitioner was transferred at Group Center, Central Reserve Police Force, Jhapha, Muzaffarpur in January 2013. Counsel further submits that vide office order dated 17.02.2016, the Deputy Inspector General of Police (Esttb.), Directorate, New Delhi issued general order of transfer of several constables including the petitioner by which the petitioner was transferred to 212 Battalion, Chhattisgarh and was given 12 days of time for his movement.

4. Learned counsel for the petitioner submits that



the said movement order was not given to the petitioner, but he was only orally informed about his transfer and movement order. Counsel also submits that upon being confirmed about his transfer, the petitioner did all the formalities i.e. deposit of riffle, mess clearance etc. Counsel further submits that the petitioner went to his native place after proper information to his officials from where, he was suffering from medical problems and became sick and after that, he was advised for rest by the Doctor under whom he was under treatment. Counsel submits that on 29.03.2016, when the petitioner was going to submit his joining, he was kidnapped from Muzaffarpur and in this regard, wife of the petitioner had submitted an application before S.H.O. Delha P.S., Gaya which was registered as Delha P.S. Case No. 68/2016 dated 02.04.2016 u/s 363, 365,34 of the Indian Penal Code and thereafter, the police started searching the petitioner and recovered the petitioner from *Harka* village under Minapur P.S. Muzaffarpur on 02.04.2016 itself.

5. Learned counsel for the petitioner submits that the petitioner informed his Commandant, Muzaffarpur about his kidnapping and requested for sanction of leave for the period he was kidnapped so that he may join in Chhattisgarh, but leave was not granted. Counsel submits that on 28.04.2016, after



treatment, the petitioner was allowed to resume his duties and submitted his joining at Muzaffarpur. Counsel further submits that on 09.05.2016, the petitioner had received memo of charge for the purpose of initiation of departmental proceeding in which two charges have been framed against the petitioner. The first charge against the petitioner was that he had disobey the movement order and left the group center without informing the concerned authorities. Counsel submits that on 26.05.2016, the petitioner responded and in the departmental proceeding, he has to appear before Assistant Commandant for inquiry where the Presenting Officer was also appointed. Counsel further submits that after departmental proceeding, the inquiry report was submitted and a copy of the inquiry report had been served upon him and the petitioner has again requested for sanction of earned leave for 13 days to submit his response with certain documents, but time was not granted and the inquiry was started on two charges, but the inquiry officers' finding has come on three charges and finally, the inquiry officer had found petitioner guilty for the charges leveled against him and recommended for punishment u/s 11(1) of the Central Reserve Police Force Act 1949 read with Rule 27 of the Central Reserve Police Force Rule 1955. Counsel submits that the Commandant, Group



Center, Central Reserve Police Force, Muzaffarpur issued the final order on 06.10.2016 by virtue of which the petitioner was removed from the post of Constable against which he has preferred appeal and his appeal was also rejected vide order dated 28.11.2016 by the Deputy Inspector General Of Police, Group Center, Central Reserve Police Force, Jhapha, Muzaffarpur and his revision petition was also dismissed vide order dated 10.02.2017 by the Inspector General of Police, Bihar Sector, Central Reserve Police Force, Patna and the original and appellate order has been affirmed.

6. The point has been taken by the petitioner before this Court that the facts that the petitioner has been kidnapped for which FIR has been instituted, has not been taken into consideration at any level of the disciplinary proceeding and the legal point which he has raised that the Inquiry Officer has no power under law to recommend the punishment in the inquiry report. On this ground, the petitioner has challenged his departmental proceeding before this Hon'ble Court.

7. Learned counsel for the Union submits that the present writ petition is not maintainable as on the question of facts, this matter has been decided by the Original Authority, Appellate Authority and the Revisional Authority and the



petitioner has only liberty to raise the points of law, if any. Counsel also submits that the petitioner has raised two legal points in his writ petition viz, the first point that the petitioner has raised is that in the charge memo, there were two charges whereas, finding has come on three charges in the inquiry report and the second point that the petitioner has raised that the Inquiry Officer has crossed his jurisdiction and recommended the punishment which he ought not to do. In this regard, counsel for the Union submits that the specific pleading has been made in paragraph nos. 31 and 32 of the counter affidavit that the charge memo dated 09.05.2016 containing three charges against the petitioner, therefore, this point raised by the petitioner that only two charges are their in the memo, but inquiry report has considered three charges, is not correct and therefore, may not be accepted.

8. On the second point, counsel for Union further submits that in paragraph no. 32 of the counter affidavit, it has been categorically mentioned by the Union that the Inquiry Officer in his inquiry report has mentioned about proving all charges leveled against the petitioner, but the Inquiry Officer has not recommended for any kind of punishment.

9. In this background, this Court has perused two



Annexures, viz, the first is charge memo dated 09.05.2016 which is annexed as Annexure-R/16 of the counter affidavit by which it transpires that there are in total three charges alleged against the delinquent/petitioner and the second is the inquiry report dated 19.09.2016 which is annexed as Annexure-9 and upon perusal of the inquiry report, it transpires to this Court that recommendation of punishment has not been made. As such, the points raised by the petitioner are not entertainable.

10. Upon perusal of the Original order, Appellate order and the Revisional order, this Court is of the opinion that every aspect and opportunity of hearing has been granted to the petitioner and the orders passed are well reasoned and therefore, this Court is not inclined to interfere in those orders as there is a concurrent finding of facts and on the points of law, this Court has already tested both those points and found no merit.

11. With the observations and directions made above, this writ petition is hereby dismissed.

(Dr. Anshuman, J.)

Divyansh/-

AFR/NAFR	
CAV DATE	
Uploading Date	21-12-2023
Transmission Date	

