

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1005 of 2018
In
Civil Writ Jurisdiction Case No.3032 of 2017

1. Union of India through the Secretary, Ministry of Home Affair, Govt. of India, New Delhi.
2. The Secretary, Ministry of Home Affair, Govt. of India, New Delhi.
3. The D.I.G., C.I.S.F, Home Ministry, New Delhi.
4. The Inspector General, Eastern Sector, Patna-13.
5. The Dy. Inspector General, Eastern Sector, Patna-13.
6. The Group Commandant, Central Industrial Security Force Home Ministry, C.G.O., Complex, 8th Story,
7. The Commandant, Central Industrial Security Force, Home Ministry, I.O.C. Unit- Barauni, District- B
8. The Deputy Commandant, C.I.S.F., Home Ministry, I.O.C. Unit Barauni, Begusarai, Bihar.
9. Mr. K. Shakeel- Inspector C.I.S.F., I.O.C, Unit Barauni, Begusarai, Bihar.

... .. Appellant/s

Versus

Balacius Lakara S/o Leyos Lakara Resident of Village- Bahera Toli, P.O.- Khetli, P.S.- Dumri, District- Gumla, Ranchi, State- Jharkhand, at present working as Constable at Central Industrial Unit- I.O.C, Barauni, District- Begusarai, State- Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anshay Bahadur Mathur, Advocate
For the Respondent/s : Mr. Sanjay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 21-03-2023

Heard learned counsel for respective parties.



2. In the instant Letters Patent Appeal, appellant-Union of India has assailed the order of the learned Single Judge dated 04.04.2018 passed in C.W.J.C. No. 3032 of 2017.

3. Brief facts of the case are that the respondent-Balacius Lakara was admitted to hospital for taking certain treatment during the intervening period from 09.07.2016 to 11.07.2016 as is evident from the records. On 08.08.2016, during inspection the officials noticed that the petitioner was sleeping in the Watch Tower while leaving his Rifle on his side. On this allegation, show cause notice was issued for imposition of minor penalty under CISF Rules, 2001 while invoking Rule 37, thereafter, proceeded to impose the penalty of withholding of pay for three days and further in appeal it was modified to the extent that withholding of pay for a period of two days.

4. Feeling aggrieved and dissatisfied with the punishment, the respondent has invoked the remedy of filing writ petition in C.W.J.C. 3032 of 2017 and it was decided on 04.04.2018, hence, the present Letters Patent Appeal.

5. Learned counsel for the appellants submitted that observation of the learned Single Judge is incorrect. The appellants are aggrieved by the observation made by the learned Single Judge, namely, "Now, the only question is with regard to the



quantum of punishment, which in my considered view is not required to be interfered with, however, the present fact and circumstances of the case as well as the principle of equity requires issuance of direction to the effect that the said order of punishment shall not be considered a stigma on the petitioner herein and would not create any impediment in his future promotional prospects".

6. It is submitted that the above observation would affect the department to the extent that respondent was punished and if it is taken into consideration for the purpose of promotion, his promotion would be deferred. Therefore, the aforementioned observation is to be set aside so as to give effect to the punishment while considering his name for promotion and deferring the date of promotion. It is also submitted that having regard to the allegations levelled against the respondent imposition of punishment and its modification is in order and further in not giving effect to or being a hurdle of promotion cannot be taken away.

7. *Per contra*, learned counsel for the respondent resisted the aforesaid contention and submitted that during pendency of the present Letters Patent Appeal he was promoted to the post of Head Constable on 07.01.2021. Further, he is likely to be promoted to the post of Assistant Sub-Inspector and his name is



under consideration. It is also submitted that disciplinary authority has taken note of medical events. However, the disciplinary authority is of the view that in the event of respondent suffering from certain illness instead of attending work he should have availed the leave. At the same time, disciplinary authority has not appreciated the fact that respondent had orally requested and apprised his immediate superior of his medical condition for availing leave and it was ignored by his immediate superior which has resulted in allegation that the respondent was sleeping at the time of inspection by his superiors. No doubt, constable who has been deployed in watch tower he should be alert in watching the territorial jurisdiction which are visible to him. On the other hand, sleeping during deployment in tower is a serious misconduct. At the same time one cannot ignore the fact that it was beyond the control of the respondent for the reasons that his immediate superior failed to understand the condition of the respondent at that relevant point of time or at the moment that he was suffering from certain illness. Taking into all these issues and the fact that respondent has already been promoted to the post of Head Constable on 07.01.2021 and he is expecting further promotion to the post of Assistant Sub-Inspector, therefore, it is not proper to interfere with the order of the



learned Single Judge dated 04.04.2018 passed in C.W.J.C. No. 3032 of 2017.

8. Accordingly, the present Letters Patent Appeal No.1005 of 2018 stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Vikash/-

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

