

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4149 of 2020

Chavan Sandip Balavantrao S/o-Late Balvant Ramchandra Chavan, R/o-Vill. Palkarwadi, Post-Kasbawalve, Radhanagri, Dist-Kolhapur, Maharashtra-416221

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, Govt. of India, New Delhi.
2. The Director General R.K. Puram, East Block, New Delhi.
3. The Inspector General, Frontier Headquarters, S.S.B Patna Bihar.
4. Deputy Inspector General, SSb, Sector Headquarters, Rasulpur, Saidpur Wazid, P.O.-Umanagar, Muzaffarpur.
5. The Assistant Commandant, Ministry of home Affairs, S.S.B. 45th BN, HQR, Jamshedpur.
6. The Deputy Commandant, Ministry of home Affairs, S.S.B, 45th BN, HQR, Jamshedpur.
7. Commandant, Ministry of home Affairs, S.S.B, 45th BN, Motihari Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Pramod Mishra, Adv Mr. Arun Kumar, Adv
For the Respondent/s	:	Mr.S.D. Sanjay (Adsg)
For the U.O.I	:	Mr. Awadhesh Kumar Pandey, CGC Mr. Brajesh Kumar Pandey, CGC Mr. Lokesh, Adv

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

7 25-07-2024 Heard learned counsel for the petitioner and learned counsel for the Union of India.

2. The present writ application is filed for quashing of the Order No. PF/CT/WC/SKV/45TH BN/S.S.B/CRC/13/18421 dated 23.11.2013 issued by the Commandant, 45TH BN SSB, Motihari, (Bihar) (Respondent No-6) whereby the petitioner, who was posted as Constable (Water carrier) in Class-iv, 45th BN, SSB, has been dismissed from service further to quash



Order No. 18/Estt/Disp/Appeal/SHQ-MZPR/2013/11339-43 dated 24.09.2014 issued by Deputy Inspector General, SSB, Sector Headquarters, Rasulpur, Saidpur Wazid, P.o.- Umanagar, Muzaffarpur, Bihar-842004 whereby the appeal against the order of dismissal of the petitioner has been dismissed also to quash Order No. JAG/FTRP/SBC/45TH BATALIAN/14-91- 61-65 dated 23.01.2015 issued by Inspector General, SSB. Frontier Headquarter, Rukanpura, New Bailey Road, Patna- 800014, Bihar, whereby the appeal against the order of Deputy Inspector General, SSB of the petitioner has been dismissed and to direct the respondents to re-instate the petitioner on his respective post with all consequential benefits.

3. Learned counsel for the petitioner submits that the petitioner was appointed on the post of Constable (water carries) Class IV and joined on 11.08.2011. During his service, he was working at Motihari, Bihar and went on leave from 17.09.2012 from 17.10.2012 to visit his family at his Village as the petitioner was unwell and suffering from typhoid and high fever, for this he submitted a representation on 17.10.2012 along with medical certificate and on 03.06.2013, the petitioner joined his service and submitted his representation of joining along with medical certificates. After that, the respondent pressurized the



petitioner and scared him about his medical certificate as being improper. Subsequently, vide memo no. 45BN/CRC/PF/WC-CSBR/13/10598/600, dated 17.06.2013, Assistant Commandant Head Quarter Jamshedpur, SSB issued a communication inter-alia stating that the petitioner was absent for 260 days and he resumed duty on 03.06.2013 at Jamshedpur Headquarter but again left on 06.06.2013 without any leave/permission.

4. He further submits that on 26.06.2013, the petitioner again submitted a representation stating therein that he was absent due to ill health and he had intimidated the respondents about the same from time to time. He further stated that on 03.06.2013, he joined the headquarter and submitted all the relevant medical papers before the commandant SSB, Jamshedpur. But, without intimating the petitioner on his representation, show cause notice vide memo no. 45TH BN/PF/CT(WC)/CSBR/2013/15881-90 dated 17.10.2013 and vide memo no. BN/PF/CT(WC)/CSBR/2013/17669 dated 02.11.2013 were issued to the appellant but the said show-cause notice was received belatedly and before the petitioner could reply to the show cause notice, he received the impugned order of his dismissal dated 23.11.2013, which was received on 20.01.2014. He further submits that the said order of dismissal was passed



by the respondent without giving an opportunity of personal hearing to the petitioner. Counsel submits that he has preferred Appeal before the Inspector General, SSB containing all his points but the appellate authority has also rejected his appeal. Counsel further submits that from the appellate order, which is order dated 23.01.2015, there is no whisper of any of the points mentioned in the memorandum of appeal by the petitioner and his appeal was rejected considering the points which had already been discussed in the original order.

5. Counsel for the State, on the other hand, submits that the petitioner was provided the opportunity but he was in habit of not coming on duty. Everytime, a sympathetic view had not taken but he has not taken care of, and subsequently, by virtue of providing opportunity to him about which a clear cut mention has been made in the order passed by the original authority i.e by the commandant, final order was passed and his appeal was also considered and after hearing, it was dismissed, and therefore, there is no need of any interference for the same. Counsel submits that it is true that inadvertently, in the order sheet Section 23 has been mentioned but he also submits that in the relevant line, violation of Section 21 of the SSB Act, 2007 has been categorically made. Therefore, only by virtue of



typographical error, the entire order may not be satisfied.

6. Upon perusal of the documents, it transpires to this Court that the appellate authority, at the time of passing of the order, has not discussed the points which had been raised by the petitioner in his memo of appeal. He has decided all the points and considered those which has been mentioned in the original order.

7. As such, this Court sets aside the appellate order, i.e. order No. 18/Estt/Disp/Appeal/SHQ-MZPR/2013/11339-43 dated 24.09.2014 issued by Deputy Inspector General, SSB, Sector, Headquarters, Rasulpur, Saidpur Wazid, P.O- Umanagar, Muzaffarpur, Bihar. Consequently, the Revisional Order No. JAG/FTRP/SBC/45th BATALIAN/14-91-61-65 dated 23.01.2015 issued by Inspector General, SSB, Frontier Headquarter, Rukanpura, New Bailey Road, Patna is also sets aside.

8. Accordingly, the matter is remanded to the appellate authority with a direction to pass a reasoned and speaking order considering all the points taken in the memorandum of appeal within 90 days from the date of receipt/production of a copy of this order.

9. With the aforesaid observation and direction, the



present writ application is disposed off.

(Dr. Anshuman, J)

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