

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6684 of 2018

Vinayak Badola No. 110680362 Ex H C Tele Son of Sri Khaima Nand Badola, Resident of Village-Mohanpur, P.S. Cantt. District-Dehradun Uttarkahand.

... .. Petitioner/s

Versus

1. The Union Of India
2. The Director General, Sashastra Seema Bal, New Delhi.
3. The Inspector General, Sashastra Seema Bal, Frontier Head Quarter, Patna.
4. The Deputy Inspector General, Sector, Head Quarter, SSb, Muzaffarpur, Bihar.
5. The Deputy Inspector General, Sector Head Qyuarter, SSb, Bettiah/Muzaffarpur Camp. at 44th SSb Nark
6. The Commandant, 44th Bn Sashastra Seema Bal, TAC, Hq Muzaffarpur, Bihar.
7. The Commandant, 44yth BN, Sashatra Seema Bal TAG, HQ Chaprakata Bongaigoan Assam.
8. Dy. Commandant RO Campat SSb Camp. Chaprakata.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Singh, Adv.
For the Union/s : Mr. Anish Kumar, AC to ASG

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 13-03-2024 Heard learned counsel for the petitioner and learned
counsel for the Union.

2. The present writ petition has been filed for setting aside the order dated 05.03.2018 No. 11/88/Estt./C.C. (44th Bn.) SHQ-BTH/SSB/17/1607-13 corrigendum dated 09.03.2018 no.1699-1705 passed by the same Disciplinary authority by which he has disposes off the representation of the petitioner dated 26.02.2018. The further prayer is to consider the case of



the petitioner and reinstate the services of young petitioner as the awarded punishment of dismissal/removal is very harsh and disproportionate to the alleged incident.

3. Counsel for the petitioner submits that the petitioner has earlier moved before this Hon'ble Court in C.W.J.C. No.10877 of 2014 in which vide order dated 23.01.2018, order has been passed whose operative part is as follows:-

“Counsel for the petitioner submits that even this commuted punishment is too harsh and it is disproportionate to the allegations. This Court is conscious of its limitations to interfere with the quantum of punishment especially when the same involves a member of uniform disciplined force. However, it would be open to the petitioner to approach the Deputy Inspector General, Sector Head Quarter, SSB Muzaffarpur by making a representation for considering the award of a lesser punishment. Such liberty is being granted without expressing any merits on the claim of the petitioner which must be disposed off in accordance with law within eight weeks from the date of receipt/production of a copy of this order.

With the liberty as aforesaid, the writ petition is therefore, dismissed.”

4. Counsel for the petitioner submits that in the light of the order passed by this Hon'ble Court, the petitioner has



filed his representation before the Deputy Inspector General, Sector Head Quarter, SSB, Muzaffarpur, Bihar vide Annexure-12 of the writ petition and in compliance of Hon'ble Court's order, the order has been passed which is Annexure-13 dated 05.03.2018 (order impugned).

5. Counsel further submits that punishment order has been passed by the same person who become the Appellate authority during the said period and he passed the order dated 05.03.2018 in violation of natural justice.

6. Counsel for the State submits that the order dated 05.03.2018 has been passed in compliance of order passed by this Hon'ble Court in C.W.J.C. No.10877 of 2014, and therefore, the order is absolutely in accordance with law.

7. After hearing the arguments of the parties, it transpires to this Court that the said impugned order dated 05.03.2018 has been passed by the same authority who passed the punishment order due to the reason that earlier he was Commandant/ Disciplinary Authority, but subsequently, he was promoted and become Appellate authority.

8. As such, this Court is of the firm view that the said authority who has passed the original order, should avoid to pass appellate order, but he has not taken care of this and here a



unique situation has been created that the original order has been passed by the Commandant, namely, M.S. Padda and the order impugned dated 05.03.2018 after remand made by this Court vide order dated 23.01.2018 passed in C.W.J.C. No.10877 of 2014 has been passed by the same authority (who became the Appellate Authority due to his promotion).

9. As such, it is a violation of natural justice, and hence, without entering into the merit of this case, the order dated 05.03.2018 is hereby set aside and the respondent No.2 is directed to do the needful so that the Appellate authority shall pass order afresh in compliance of order dated 23.01.2018 passed in C.W.J.C. No.10877 of 2014 by the Appellate authority other than M.S. Padda, within 60 days from the date of communication of this order.

10. With the aforesaid direction, the present writ application is hereby disposed off.

(Dr. Anshuman, J.)

Prakashmani/-

U			
---	--	--	--

