

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1614 of 2019

In
Civil Writ Jurisdiction Case No.5347 of 2016

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Khurshid Alam Son of Md. Shabir Ansari, Resident of Village-Akil Tola,
P.O.-Kasdeora Bangra, P.S.-Maharajganj, District-Siwan.

... .. Appellant/s

Versus

1. The Union of India through Ministry of Home Affairs, North Block, Central Secretariat, New Delhi-110001.
2. The Directorate General, Central Reserve Police Force (CRPF), Block No. 1, C.G.O. Complex, Lodhi Road, New Delhi-110003.
3. The Inspector General (IG), Central Range, Central Reserve Police Force (CRPF), Gomati Nagar, Lucknow, Uttar Pradesh (UP).
4. The Deputy Inspector General (DIG), Central Reserve Police Force (CRPF), Amethi Range, Lucknow, Uttar Pradesh (UP).
5. The Deputy Inspector General (DIG), Central Reserve Police Force (CRPF), Group Kendra, Amethi Range, Lucknow, Uttar Pradesh (UP).
6. The Deputy Inspector General (DIG), Central Reserve Police Force (CRPF), Group Kendra, Muzaffarpur, Bihar.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Bipin Bihari Singh
For the Respondent/s	:	Mr.S.D. Sanjay (Adsg)
For the Union of India	:	Mr. Bindhyahal Rai

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 08-08-2024

The Appellant has assailed the order of the learned single Judge dated 07.11.2019 passed in C.W.J.C No. 5347 of 2016. The Appellant while working as a Constable in Company Commandant of 214 battalion of the CRPF. He remained unauthorized absence for about 572 days. During the intervening period, disciplinary authority made various



communication and all necessary endeavour to secure the appellant. He could not secure the Appellant, resultantly, ex-parte inquiry has been held for remaining unauthorized absence for about 572 days. Appellant was working in a disciplinary force like CRPF, he cannot just walk away from the office without informing his employer. Learned counsel for the Appellant submitted that appellant was suffering from certain ailment and he was taking treatment including disease of Hepatitis- B. In this regard, the Appellant could not apprise this Court to the extent that Doctor has advised him for bed rest for a particular period so as to draw inference that it was beyond the control of the Appellant in attending the office or in not responding to the various communication of the respondents.

2. In view of the aforementioned facts and circumstances, Respondent authority proceeded to pass order of removal and it has been affirmed by the learned single Judge. That apart, scope of judicial review under Article 226 of the Constitution is limited, in this regard Hon'ble Supreme Court in the case of *Union of India vs. P. Gunasekaran* reported in *2015 (2) SCC 610*, in para nos. 12



and 13, it is held as under.

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous*



considerations;

(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;

(i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based;

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.



3. Taking note of scope of judicial review under Article 226 of the Constitution in respect of domestic inquiry /departmental inquiry, the appellant has not made out a case so as to interfere with the removal order and consequential orders including order of the learned single dated 07.11.2019 passed in C.W.J.C No. 5347 of 2016.

4. Accordingly, LPA stands dismissed.

5. Pending I.A.(s), if any , stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

vashudha/-

AFR/NAFR	NAFR
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