

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1211 of 2024

In
Civil Writ Jurisdiction Case No.21188 of 2012

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1. The Union of India through the Secretary, Department of Homes, Government of India, New Delhi.
 2. Director General (Central Industrial Security Force) C.G.O. Complex, New Delhi.
 3. Inspector General (C.I.S.F.), Eastern Zone Head Office Boring Road, Patna, Bihar.
 4. Deputy Inspector General (C.I.S.F. Unit), B.C.C.L., Dhanbad, Jharkhand.
 5. Commandant (C.I.S.F. Unit), B.C.C.L., Dhanbad, Jharkhand.

... .. Appellant/s

Versus

Deo Narayan Singh S/o Shri Surendra Singh, R/o Village- Akbarpur, P.S.- Paliganj, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ram Tujabh Singh, CGC
For the Respondent/s : Mr. Bhairaw Nand Sharma, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V. JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 07-05-2025

I.A. no.1 of 2025

1. The instant application has been filed by the appellant/Union of India praying for condoning the delay of 128 days in filing of the instant appeal.

2. The limitation for filing an appeal against the judgment impugned dated 25.6.2024 expired on 24.7.2024, however, the appeal was filed after a delay of 128 days only on



29.11.2024.

3. It has been submitted by learned counsel appearing for the appellant that on account of illness of the clerk of the concerned counsel, he was informed that the case had been finally heard and judgment reserved. The appellant came to know only on 25.9.2024 that the writ application filed by the respondent had been allowed. It was thereafter that a typographical error in the judgment impugned was got corrected on 2.8.2024 and thereafter the appeal filed.

4. On perusal of the contents of the interlocutory application, this Court finds that there is no explanation whatsoever with respect to the delay in filing of the appeal from 25.6.2024 till the same was filed on 29.11.2024.

5. Taking into consideration the law laid down by the Hon'ble Supreme Court in its judgment in the case of *H. Guruswamy & Ors. vs. A. Krishnaiah since deceased by Lrs. [2025 (2) BLJ 69 (SC)]*, the Court is of the opinion that the appellant has not made out a case for condonation of delay in filing of the instant appeal.

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6. Heard learned counsel for the parties.

7. The instant appeal has been preferred by the



appellant/Union of India against the judgment dated 25.6.2024 passed in CWJC no.21188 of 2012 whereby the learned Single Judge holding the punishment of dismissal from service to be too harsh remanded the matter back to the disciplinary authority to impose lesser punishment in the facts and circumstances of the case and to extend monetary and service benefits to the respondent/writ petitioner.

8. The relevant facts in brief are that the respondent, a constable in the Central Industrial Security Force (C.I.S.F.) was proceeded against in a departmental proceeding. He was served with the charge memorandum on 18.9.2010. The charges levelled against the respondent were to the effect that while he was posted at duty in the Dahibari workshop from 9 p.m. on 29.7.2010 to 5 a.m. on 30.7.2010, he remained absent till 11 p.m. which showed his negligence, indiscipline and not obeying the orders of the authority. The second charge was that while posted for duty as stated above, he left his post at 1 a.m., went to the loading office and started fighting with the loading clerk namely Sahdeo Thakur. The third charge was that during his service period in the past, he had been punished 11 times but he was not ready to improve.

9. The enquiry officer submitted his report finding



the respondent to be guilty of the charges. On receiving a copy of the enquiry report, the respondent filed his reply. The disciplinary authority awarded him the punishment of “compulsory retirement with full pension and gratuity benefits” vide order dated 5.2.2011. The appeal preferred by the respondent was rejected on 28/30.6.2011 and the revision preferred against the order of the appellate authority was also rejected on 3.11.2011.

10. The respondent challenged the order of punishment as also the orders passed in appeal and revision in CWJC no.21188 of 2012 which was allowed by the learned Single Judge by his judgment dated 25.6.2024. The case of the respondent was remanded to the disciplinary authority to reconsider the penalty imposed and for passing an appropriate order as in the opinion of the learned Single Judge, the punishment of dismissal from service was too harsh. The disciplinary authority was asked to impose lesser penalty in the facts of the case.

11. It is against this order that the instant appeal has been preferred.

12. It was submitted by learned counsel appearing for the Union of India that the learned Single Judge had erred in



allowing the writ application. The learned Single Judge failed to appreciate that the charges against the respondent was proved in the duly constituted departmental enquiry. Reliance has been incorrectly placed on the judgment in CWJC no.10065 of 2013 as the facts of the two cases were different and it was also not taken into consideration that even in the past, the respondent had been imposed with 11 penalties and he was not ready to mend his ways. The order of punishment was not harsh. The matter being old, it was prayed that the order be set aside and the appeal be allowed.

13. The appeal was opposed by learned counsel appearing for the respondent. It was submitted on behalf of the respondent that neither any preliminary enquiry was held nor was the respondent served with show cause with respect to the allegations levelled by Sahdeo Thakur. Even in the past, there had never been any complaint by the superior authorities against the respondent of any misconduct. It was submitted that the punishment of compulsory retirement on the allegation of the respondent not being present on duty at 1 a.m. on 29.7.2010 was too harsh. In support of his contention, learned counsel relied on the judgment of this Court in the case of *Constable No.911120653 Hawaldar, G.D. Datta Singh vs. The Union of*



India & Ors. (CWJC no.10065 of 2013) and on the judgment of the Hon'ble Apex Court in the case of ***Union of India & Anr. vs. R.K.Sharma (Civil Appeal no.4059 of 2015)***.

14. Having gone through the records of the case this Court is of the opinion that taking into account the contents of the enquiry report wherein allegation of absenting himself from his duty post, misbehaving with the loading clerk and his past service record, the order of punishment of compulsory retirement with full pension and gratuity benefits was too harsh.

15. The learned Single Judge relying on the judgments in the case of ***Amrender Kumar Pandey vs. Union of India & Ors. [2022 Live Law (SC) 600]*** as also the judgment in the case of ***B.C. Chaturvedi vs. Union of India & Ors. [(1995) 6 SCC 749]*** rightly remanded the matter to the disciplinary authority to reconsider the penalty imposed and to pass appropriate orders imposing lesser penalty.

16. Having gone through the records of the case, this Court finds no perversity in the judgment of the learned Single Judge remanding the matter back to the disciplinary authority to impose lesser punishment on the respondent.

17. In the facts of the case, the Court finds no merit in the instant appeal nor in the petition filed for condonation of



delay.

18. As such, both the application for condonation of delay in filing of the appeal as also the appeal are dismissed.

(Partha Sarthy, J)

(Ashutosh Kumar, ACJ): I agree.

(Ashutosh Kumar, ACJ)

Saurabh/-

AFR/NAFR	NAFR
CAV DATE	03.03.2025
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