

(2024) 03 PAT CK 0049

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 10965 Of 2012

Chhathu Ram

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 18-03-2024

Acts Referred:

Citation : (2024) 03 PAT CK 0049

Hon'ble Judges : Rajesh Kumar Verma, J

Bench : Single Bench

Advocate : Ashok Kumar Singh, Anand Kumar Ojha, Ashok Kumar Karna

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the petitioner and Mr. Anand Kumar Ojha, learned Sr. Panel Counsel appearing for the Union of India.

2. The present writ application has been filed for the following reliefs:

(1) For quashing the order dated 15.4.2011 issued by the office of Deputy Inspector General, C.L.S.F. Bokaro, Jharkhand under the signature of commandant (Respondent No.4) CISF, unit, CCL Kargali as well as the letter dated 30.5.11 issued by DIG C.L.S.F. unit CCL, Kargali (appeal) by which appeal was dismissed and by respondent No.2 and confirm the order dated 15.4.2011 as well as revisional order dated 21.10.2011 vide letter No. 10826 passed by revisional authority, Inspector General of CISF East Zone Head Quarter, Boring Road Patna (Respondent No.2) by which Inquiry Officer commandant CISF unit CCL Kargali has awarded punishment of "Reduction of pay one stage" for a period of three years "That petitioner will not earn increments of pay during the period of reduction and that on expiry of this period of reduction will have the effect of postponing his future increment of pay".

(II) For commanding the respondents to reconsider the charges levelled against the petitioner.

(III) For commanding and directing the respondents to consider the show cause filed by the petitioner which was not considered by the respondents.

(IV) For commanding the respondents to take lenient view upon the show cause of the petitioner because the petitioner is a poor and Honest Person.

3. The petitioner was appointed as a constable in C.I.S.F. on 04.07.1994 and on 03.09.2010 the petitioner was on duty and during the period 13.00 to 21.00 he was on duty on Sabal No.880+298 at C.I.S.F. Unit, CCL, Kargali and it has been alleged that during his duty about 13 meter training cable has been theft and accordingly a departmental proceeding was initiated against the petitioner.

4. Learned counsel for the petitioner submits that the procedure for one proceeding was not followed and there was violation of the principles of natural justice.

5. Learned counsel for the Union of India has filed a counter affidavit stating therein that from a bare perusal of the punishment order dated 15.04.2011 that an ample opportunity has been given to the petitioner in the departmental proceeding and the petitioner has also filed a detailed representation and apart from that the petitioner has also filed a reply to the second show cause and after considering all the relevant papers as well as prosecution witnesses the order has been passed in accordance with law and from a bare perusal of the punishment order dated 15.04.2011 it appears that the petitioner has been given an ample opportunity and there is no violation of principles of natural justice and even there is no procedural irregularity in the proceeding and it appears from the appellate order or revisional order that the authority concerned, after considering all aspects, have passed detailed orders in accordance with law.

6. Learned counsel for the Union of India has relied upon the judgment in the case of B.C. Chaturvedi Vs. Union of India, reported in (1995) 6 SCC 749 and paragraph-12 and 13 of the said judgment, which reads as follows:-

"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of

judicial review does not act as appellate authority to re-appreciate the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case.

“13. The disciplinary authority is the sole judge of facts. Where appeal is presented. The appellate authority has co- extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal. In *Union of India v. H.C. Goel* [(1964) 4 SCR 781], this Court held at page 728 that if the conclusion, upon consideration of the evidence, reached by the disciplinary authority, is perverse or suffers from patent error on the face of the record or based on no evidence at all, a writ of certiorari could be issued”.

7. In view of the aforesaid settled proposition of law of the Hon'ble Apex Court, there is no infirmity in the order dated 15.4.2011, 30.05.2011 and 21.10.2011 and accordingly, this writ application is dismissed.