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**(2010) 07 PAT CK 0001**  
**In the Patna High Court**  
**Case No : C.W.J.C. No. 18099 of 2009**

Ex. Ct. Ranvir Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision :** 19-07-2010

**Acts Referred:**

**Citation :** (2011) 128 FLR 694

**Hon'ble Judges :** V.N. Sinha, J

**Bench :** Single Bench

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## Judgement

1. Heard learned Counsel for the Petitioner and the Counsel for the Union of India. Petitioner was subjected to departmental proceeding pursuant to charge-sheet dated 1.10.2005, Annexure-6, wherefrom it appears that on 10.8.1996 he was posted at the Camp Gate but proceeded to the family quarters at about 22-15 hours and remained under unauthorized absence until 11.8.1996, 6.00 a.m. He is further alleged to have misbehaved and abused Subedar Major and others on 21.4.1996 and refused to accept the service of order dated 12.8.1996 of the Company Commander. Pursuant to the departmental proceeding he was dismissed from service. The dismissal order was challenged before this Court in C.W.J.C. No. 13175 of 2000 which was allowed under orders dated 12.5.2005, Annexure-1 and the dismissal, appellate and revisional orders were quashed with direction to the disciplinary authority to grant the Petitioner liberty to file second show cause reply as also to consider the question of allowing him the opportunity to engage the Counsel, if the Rule permits in accordance with law.

2. In the light of the orders of the High Court dated 12.5.2005, Annexure-1 Petitioner was served with second show cause notice, on the question of engaging lawyer it was said that for filing second show cause reply if he wishes to engage lawyer he is at liberty to do so. Petitioner filed his second show cause reply, which is dated 17.10.2005 and is contained in Annexure-7 to this application. In paragraph-25 thereof it has been submitted on behalf of the Petitioner that he was not given opportunity to cross-examine the prosecution

witnesses as also to adduce evidence on his behalf and the enquiry report be set aside for failure of the Enquiry Officer to grant the Petitioner adequate opportunity to defend himself. The disciplinary authority has dealt with the aforesaid submission regarding lack of adequate opportunity to defend in paragraph-7 of the order dated 23.11.2005, Annexure-8, wherein it has been categorically stated that the proceedee, in spite of adequate opportunity being granted by the Enquiry Officer, did not appear before him and always tried to delay the proceeding and the Enquiry Officer had to submit ex parte enquiry report holding the Petitioner guilty of the three charges levelled against him. Against the dismissal order dated 23.11.2005, Annexure-8 Petitioner approached the appellate authority but his appeal was dismissed, thereafter Petitioner preferred revision which was also dismissed. Finally Petitioner moved the Director General, who also rejected the mercy petition. The orders passed by the appellate, revisional authorities and the Director General are dated 23.2.2006, 5.7.2006 and 13.11.2006 contained in Annexures-10, 12 and 14 to this application.

3. Present writ application has been filed against the enquiry report, order of disciplinary authority, the appellate, revisional order, and the order of the Director General, Annexures-6, 8, 10, 12 and 14 on the ground that in compliance of the orders of the High Court dated 12.5.2005, Annexure-1 it was incumbent upon the disciplinary authority to allow the Petitioner the service of a lawyer so as to enable him to cross-examine the witnesses produced in the enquiry proceeding. I regret not to accept such submission as the earlier order of the High Court dated 12.5.2005, Annexure-1 is quite clear, which provides that the disciplinary authority shall consider the request of the Petitioner for engaging a lawyer from the stage of issue of the second show cause notice as while passing order, Annexure-1 this Court only quashed the order of the disciplinary, appellate and the revisional authority and not the enquiry report with direction to the disciplinary authority to proceed from the stage of second show cause notice. In such circumstances, in my opinion in compliance of the orders of this Court dated 12.5.2005, Annexure-1 the disciplinary authority could have proceeded only from the stage of second show cause notice and not from the stage of conduction of enquiry proceeding. In the circumstances, the disciplinary authority rightly observed that it is not necessary for him to pass any order to enable the Petitioner to engage the service of a lawyer for preparing his second show cause reply.

4. I do not see any illegality in the impugned orders on account of failure of the disciplinary authority to set aside the ex parte enquiry report and to permit the Petitioner the service of a lawyer from the stage of cross-examination as the orders of the High Court dated 12.5.2005, Annexure-1 is quite clear, whereunder the order of the disciplinary, appellate and the revisional authority was only quashed upholding the enquiry report.

5. Having considered the correctness of the order passed by the disciplinary

authority, I have gone through the memo of charge as also the punishment imposed together with the submission of the Counsel for the Petitioner that earlier Petitioner was never proceeded against during his service span of about eight years as he entered the service of the force in 1988 and was proceeded for the first and the only time in the year 1996 and that Petitioner has unblemished record during the previous eight years, I set aside the order of the revisional authority and the Director General, CRPF dated 5.7.2006 and 13.11.2006 contained in Annexures-12 and 14 and direct the Inspector General, CRPF, Bihar Sector, Respondent No. 3 to reconsider and reduce the punishment imposed on the Petitioner by giving him one more chance to improve himself in view of my findings above, as early as possible, in any case within three months from the date of receipt of this order before Respondent No. 3.

6. The writ application is, accordingly, disposed of.