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**(2007) 07 OHC CK 0018**  
**In the Orissa High Court**

Pradeep Kumar Mohapatra

APPELLANT

Vs

Directorate General-CRPF four Ors.

RESPONDENT

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**Date of Decision :** 11-07-2007

**Acts Referred:**

**Citation :** (2007) 104 CLT 837 : (2007) 2 OLR 382

**Hon'ble Judges :** B.P. Das, J;A.K. Samantaray, J

**Bench :** Division Bench

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### **Judgement**

1. Heard Mr. C.R. Patnaik, learned Counsel for the petitioner and Mr. S. K. Das, learned Counsel for the Central Government.
2. In this writ application the petitioner has challenged the order of his dismissal from service passed by the D.I.G.P., C.R.P.F., Guwahati (Assam) on 27.9.1999 vide Annexure-6 and the order dated 3.4.2000 rejecting the appeal passed by the I.G.P., C.R.P.F., Shillong (O.P.No.2) (Annexure-8).
3. The facts leading to this writ application tend to reveal that the petitioner was recruited as a Constable/GD in the CRPF, and was posted as such under the Addl. D.I.G.P., Group Centre, C.R.P.F., Bhubaneswar (O.P.No. 5). On being promoted as L/NK/Constable, he was transferred and posted under the Commandant, 60 Bn., C.R.P.F., Nagaon (Assam) (O.P.-4). While working as such was engaged as Mess Under Officer for one month, i.e., from 26.10.95 to 25.11.95 at the C.R.P.F., Ors. Mess, Transit Camp, Jammu. While so working, allegation was made against the petitioner that he had made two false bills amounting to Rs. 4,500/- each and produced the same in support of purchase of Barfee/Sweets for Transit Camp Mess from M/s. Modern Sweet, Jammu and the bills had been prepared on white paper (manuscript form), whereas no such firm existed in Jammu. Accordingly, charges were framed against the petitioner vide Annexure-2 to which he filed written statement denying the charges levelled against him. The petitioner in his written statement stated that as per the C.R.P.F., Other Ranks" Rules purchasing committee consisting of two members was entrusted with power to purchase commodities from local market for the Mess and the Mess Subordinate Officer

(MSO) was to receive the amount from Company Commandant to make local purchase. As per the aforesaid rules an amount not exceeding Rs. 1000/- only may be advanced to the MSO as and when required for making local purchases through the Mess Under Officer who were engaged on rotation basis. According to petitioner, the Mess Under Officer was vested with the power to purchase commodities below Rs. 1000/- as per Rules. The petitioner, therefore, stated in his written statement that the allegation of fabrication of false bills made against him was false as in fact he had no role to play with that bills as all sort of commodities above Rs. 1000/- were purchased through the Purchasing Committee/Mess Subordinate Officer.

4. Be that as it may, the Enquiry Officer in his enquiry report submitted to the Disciplinary Authority found that the petitioner was guilty of the charges and the Disciplinary Authority (O.P.No. 3) passed the order dated 27.9.99 awarding punishment of dismissal from services vide Annexure-6. Petitioner's appeal to the appellate authority, i.e. I.G., C.R.P.F., was also rejected by order dated 3.4.2000 vide Annexure-8.

5. A counter affidavit has been filed by the opposite parties wherein it is stated that the Barfee/Sweets were purchased for the Transit Camp Ors Mess from Modern Sweet, Jammu and false bills have been prepared on white paper (manuscript form). The shop from which the vouchers were obtained by the petitioner and two others was not in existence in Jammu. So the question of misappropriation was not there. The charge was also not for misappropriation. The allegation was of preparation of bills on white paper (manuscript form), resulting in negligence in discharge of duty in their capacity.

6. After hearing learned Counsel for the parties and considering the materials on record, we do not find any illegality in the process of conducting the enquiry or any infirmity in the finding arrived at by the Enquiry Officer. However, the punishment, i.e., dismissal from service inflicted on the petitioner, in our considered opinion, is certainly disproportionate to the charges framed against the petitioner and is shocking to the judicial conscience of the Court. Accordingly, we set aside the order of dismissal of the petitioner from service vide Annexure-6 as well as the order of the appellate authority under Annexure-8 and leave it open to the authority to inflict a lesser punishment as provided in CRPF Rules, 1955. Learned Counsel for the petitioner undertakes that in case he is reinstated in service, he shall only be entitled to 25% of his back wages and not more than that.

7. The writ petition is disposed of with the above order.