

(2016) 02 JH CK 0159

In the Jharkhand High Court

Case No : L.P.A No. 238 of 2015 with I.A No. 5779 of 2015

Shilendra Singh Rathore

APPELLANT

Vs

Union of India and Ors.

RESPONDENT

Date of Decision : 16-02-2016

Acts Referred:

Central Industrial Security Force Act, 1968 — Section 8

Citation : (2016) 2 AIRJharR 102

Hon'ble Judges : Virender Singh, C.J.; S. Chandrashekhar, J.

Bench : Division Bench

Advocate : Jay Prakash Pandey, Advocate, for the Appellant; Rajiv Sinha, ASGI, for the Respondent

Final Decision : Dismissed

Judgement

Virender Singh, C.J. - I.A No. 5779/2015

For the reasons mentioned in the instant application and there being no objection from the side of the respondents, the delay of six days in filing the accompanied appeal is hereby condoned. I.A No. 5779/2015 stands disposed of.

L.P.A No. 238/2015

The appellant-writ petitioner (hereinafter referred to as petitioner), when awarded punishment of removal from service, which order was further affirmed in memo no.4965 dated 27th April, 2012 by the appellate authority as well as in memo no. 9959 dated 7th September, 2012 by the revisional authority, moved learned Writ Court through the medium of W.P(S) No.5565/2013, which now stands dismissed, vide order dated 24th March, 2015 handed down by learned Single Judge, aggrieved thereof, he has preferred the instant Letters Patent Appeal, which is at admission stage.

2. The petitioner is a Constable in CISF and when he was on official duty in connection with Uttar Pradesh Assembly Election, he, while on duty, consumed

liquor and started abusing others. He also fired one shot after coming out of the barrack and on intervention, his rifle and cartridges were taken from him. The fact that he was under the influence of liquor has been affirmed by the Doctor, who examined him immediately after the incident. Besides this, at earlier occasions also he was punished six times on account of in disciplined action on his part.

3. Departmental proceedings were initiated against him for proving the aforesaid two charges, which were ultimately proved. He was accordingly given the punishment of removal from service, vide order dated 24th March, 2012, passed by the Commandant, CISF, which got affirmed by the appellate authority and also the revisional authority as stated hereinbefore.

4. Learned counsel for the petitioner joins issue with regard to the quantum of punishment only stating that for the charge which stands proved against the petitioner or even for his in disciplined act noticed, the punishment of removal from service slapped upon him appears to be very grave in nature. He states that it is disproportionate to the charges levelled against him.

5. We are not in agreement with the contention advanced by learned counsel for petitioner. The punishment awarded to him is not disproportionate to the offence alleged. The petitioner belongs to a disciplinary force and members of such a force are required to maintain discipline and to act in a befitting manner. He should not have indulged himself into consumption of liquor while on duty. Not only that he released a shot from his service revolver when others intervened to stop him. His past conduct, as indicated herein above, also reflects that he does not deserve to be in the police force. The punishment awarded to the petitioner, in our considered opinion, cannot be said to be shocking to our conscience and, therefore, it does not call for any interference. Our view is strengthened by the ratio of the judgment in case Samar Bahadur Singh v. State of Uttar Pradesh and Others, reported in (2011) 9 SCC 94. In this case the delinquent was found under the influence of liquor and then indulged himself in an offence. The Hon"ble Supreme Court, declining to interfere with the satisfaction arrived at by the disciplinary authority observed that members of a disciplined force are required to maintain discipline and to act in a befitting manner in public interest.

6. In that view of the matter, we find no merit in this appeal, which is dismissed at this stage itself.