

Siya Ram Sharma Vs. the Union of India (Uoi) and ors.

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Court : Jharkhand

Decided On : Mar-22-2006

Reported in : [2006(2)JCR334(Jhr)]

Judge : S.J. Mukhopadhyaya and; D.K. Sinha, JJ.

Acts : Central Industrial Security Force Rules, 1969 - Rule 34; Central Industrial Security Force (Amendment) Rules, 2001 - Rule 36

Appeal No. : Letters Patent Appeal No. 238 of 2004

Appellant : Siya Ram Sharma

Respondent : The Union of India (Uoi) and ors.

Advocate for Def. : P.K. Prasad, Adv.

Advocate for Pet/Ap. : S.K. Verma, Adv.

Disposition : Appeal dismissed

Judgement :

S.J. Mukhopadhyaya, J.

1. This appeal has been preferred by the appellant against the judgment dated 20th February, 2004 passed by the learned Single Judge In W.P.(S) No. 2607 of 2002, whereby and where under, the prayer of the appellant for payment of salary

for the period from June, 2000 onwards was rejected and the writ petition was dismissed.

2. According to the appellant, he being ill on 22nd May, 2000, was admitted to the hospital, Dugda Coal Washery. Medical certificate was also issued in respect to treatment for the period from 29th May, 2000 to 10th July, 2000 but payment of salary of the period was not made. Subsequently also, the appellant was not paid salary and he was transferred to another place and in spite of stay order passed by this Court in C.W.J.C. No. 2850 of 2000, salary of the subsequent period was not paid.

3. The respondents have disputed the fact and taken plea that the appellant unauthorizedly absented from duty w.e.f. 29th May, 2000 and violated the orders of superior authorities. A departmental proceeding was initiated under Rule 34 of C.I.S.F. Rules, 1969 (now Rule-36 of C.I.S.F. Rules 2001) vide Memorandum dated 11th August, 2001 and he having been found guilty for unauthorized absence from duty, was compulsorily retired and no salary was paid to him.

4. Learned Counsel for the parties relied on the averments made in the writ petition and the facts, as pleaded by the opposite parties in a contempt case preferred by the appellant, from which it appears that the appellant, who was in the services of C.I.S.F. unit, Dhanbad as Head Constable, was transferred by order No. 44/2000 dated 3rd July, 2000 from Central Coal Washery, Dugda to C.I.S.F. Unit, Central Coalfields Limited, Kongali but he failed to join the transferred post. Against the order of transfer, he filed a writ petition C.W.J.C. No. 2850 of 2000. In the said writ petition, certain interim order was passed and later on, the Court did not choose to interfere with the order of transfer, though direction was given to the respondents to relieve the appellant.

5. It appears that the appellant even, thereafter, did not choose to report to duty, for which a departmental proceeding was initiated vide memorandum dated 11th August, 2001. The appellant did not choose to appear before the enquiry officer and refused to accept the notice. Even after enquiry, he refused to accept the copy of the enquiry report, whereinafter the period of absence from duty was treated as unauthorized absence and being misconduct, he was compulsorily retired from

service. Learned Single Judge has noticed that in a contempt proceeding MJC No. 160 of 2001, the Court noticed that movement order was forwarded to the appellant under registered post but he refused to accept the same. In view of aforesaid fact, no relief was granted.

6. We find no ground made out to interfere with the order passed by the learned Single Judge. Accordingly, this appeal is dismissed.

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