

PREETAM SINGH Petitioner
Through : Mr. H.S. Dahiya, Adv.

versus

UNION OF INDIA & OTHERS Respondents
Through : Mr. A.K. Bhardwaj, Adv. with
Mr. Asit Tiwari, Adv.

CORAM :-**HON'BLE MS. JUSTICE GITA MITTAL****HON'BLE MR. JUSTICE J.R. MIDHA**

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| 1. | Whether Reporters of Local papers may be allowed to see the Judgment? | YES |
| 2. | To be referred to the Reporter or not? | YES |
| 3. | Whether the judgment should be reported in the Digest? | YES |

GITA MITTAL, J. (Oral)

1. Rule D.B.
2. Learned counsel for the respondents submit that he has the original record relating to the case and having regard to the short nature of the controversy, the matter may be heard. Accordingly, with the consent of both parties, we have heard learned counsel appearing for the parties.
3. The petitioner has assailed the order dated 21st August, 2008 whereby in exercise of powers under the Proviso of Sub-Rule (2) of Rule 25 of the Central Industrial Security Force Rules, 2001 (CISF Rules hereafter), the services of the petitioner as Constable with the Central Industrial Security

Force were inter alia terminated. The petitioner also assails the order dated 12th February, 2009 passed by the Inspector General of the force rejecting the petitioner's appeal.

4. The facts arising to the present writ petition are in narrow compass. The petitioner was appointed as Constable with the CISF on 1st September, 2007 and as per the terms and conditions of service, was placed under probation for a period of two years. After his appointment, the petitioner had been required to complete the formalities and fill up the attestation form wherein against a query at serial No.12 of the attestation form with regard to the petitioner had ever been prosecuted in any "Court of Law", the petitioner had answered in negative. The respondents contend that the attestation form contained a warning to the effect that furnishing of false information or suppression of any factual information therein would be a disqualification and is likely to render the candidate unfit for employment under the Government.

5. The record produced before us discloses that the respondents received a communication dated 5th August, 2008 from the District Magistrate, Bharatpur to the effect that the petitioner had been implicated in a case bearing No.115/2007 under Section 147, 149, 353, 336, 283 of IPC and case No.118/2007 under Section 147, 148, 149, 332, 353, 336, 283 of IPC. This communication also informed the respondents that the matter was still under investigation.

6. On receipt of the said communication, without anything more, the commandant of the CISF Unit NALCO Damanjodi in District Koraput, Orissa proceeded to pass the impugned order dated 21st August, 2008 terminating the services of the petitioner and directing that he would be entitled to claim a sum equivalent to the amount of his pay plus allowances for the one month notice period.

Aggrieved thereby, the petitioner addressed a representation dated 19th September, 2008 to the office of DIG, CISF, Eastern Zone, CISF Headquarters. However, the same was returned on 25th September, 2008 for the reason that no penalty has been imposed upon the petitioner by the Competent Authority and consequently in view of the provisions of rule 25(2) of the CISF Rule, 2001, no appeal lay against such order of termination. The petitioner was diverted to make a representation in terms of Rule 26 of the CISF Rules to the Inspector General.

7. The petitioner has placed on record the character certificate dated 3rd October, 2008 from the office of District Superintendent of Police, Bharatpur (Rajasthan) which clearly states that after completion of investigation, the petitioner was not found involved in the above criminal case and his name was consequently dropped therefrom. It is also certified that petitioner has not been found involved or convicted in any criminal case.

8. In this background, the petitioner made a representation dated 5th November, 2008 to the office of Inspector General.

This revision was also not accepted and came to be rejected by an order passed on 12th February, 2009.

9. These orders dated 21st August, 2008 and 12th February, 2009 are assailed by the petitioner primarily on the ground that he had no knowledge about the registration of the cases by the police authority against him; that he had never been arrested and no notice even summoning him by the police station had ever been received. It is further contended that the petitioner had learnt about the registration of the case only after he made inquiries from the respondents with regard to the reasons for his termination and was informed about the pendency of the two cases. It is further contended that as a result of the termination orders, the petitioner would stand precluded from Government service. The petitioner also makes a grievance that though after completion of investigation, the police arrived at a conclusion that the petitioner was not involved in the case and the same stood dropped so far as against the petitioner, the respondents have not paid any heed to these facts.

In this background, it is urged that merely being cited as being involved in a false criminal case could be no reason for invoking the powers under the CISF Act and Rules and terminating the services of the petitioner.

10. Mr. A.K. Bhardwaj, learned counsel appearing for the respondents has justified the action taken against the petitioner on the plea that the registration of the case against

the petitioner was confirmed by the police authorities and that he had concealed such information in the attestation form. It is submitted that the registration of a case by itself would be sufficient reason for terminating the service of the petitioner for the reason that he stood implicated in a criminal case. It is also urged that the petitioner had failed to disclose the registration of the criminal case and, therefore, the impugned orders against the petitioner terminating his service by the respondents would not be faulted with.

11. We have given our considered thought to the submissions of the parties and have also carefully examined the available record before us. We find that knowledge of the registration of the case for the first time came to be revealed on receipt of the letter dated 5th August, 2008 from the police authorities, District Magistrate, Bharatpur when the respondents forwarded the attestation form of the petitioner for verification. The District Magistrate also informed the respondents of the fact that investigation in the said case No.115/2007 and case No.118/2007 was underway. This would manifest that even the police were not sure about the involvement of the petitioner or even the other accused personnel.

12. The petitioner has stated that he was not aware of his having been named in the said cases or registration of the cases against him. It has been stated that the petitioner came to know about the registration of the cases only after impugned order terminating his services was passed by the respondents

and he made inquiries with regard to the same from his home town.

13. Neither the impugned orders nor the counter affidavit take the stand of attributing knowledge to the petitioner about the pendency of the cases at the time when he was enrolled on 20th August, 2007 or when he filled up the attestation form.

14. The record also does not disclose any material which would enable this Court to hold that the petitioner was at all aware of the registration of the criminal cases by the police or the pendency against him at the time he filled up the attestation form. In this background, it certainly cannot be held that the petitioner intentionally or deliberately filled up or submitted false information to the respondents when he was selected for recruitment and filled up the attestation form. The petitioner cannot be faulted for not giving such information which he was ignorant about. We may notice that this is the sole ground for terminating the services of the petitioner by the orders dated 21st August, 2008 and 12th February, 2009. These orders, therefore, contrary to the facts, are not based on any relevant material and cannot legally stand.

15. We may also notice that the petitioner has explained that on account of the agitation by the Gurjars for reservation in Rajasthan, the police station Uchhan, District Bharatpur had registered the cases on 1st June, 2007 against several persons who have participated in the agitation. The petitioner has explained that he was not even present in Rajasthan on the

date of the alleged agitation for the reason that he had been engaged as driver on a private vehicle of Kalyan Oil Bulk Carrier in the CISF Unit at the IOC, Mathura. He explained that his name was wrongly mentioned in the case by the police based on names collected by them of people who were living in the villages. We find that this stand was taken by the petitioner in the representation submitted by him to the Inspector General as well which came to be disposed of by the order dated 12th February, 2009. It is unfortunate that this plea of the petitioner, which could have been easily verified by the respondents and would have been in the record related to the plea set up by the petitioner, that this was not relevant to the fact that the FIR was lodged against him.

16. The petitioner has drawn our attention also to other similar notices to show cause issued by the respondents. In this behalf a notice dated 19th September, 1996 issued to Constable Gopal Bhagat making allegations of his being involved in the criminal case and having concealed this information at the time of filling up of attestation form is placed before us. The petitioner has also placed on record a copy of the order dated 6th August, 2003 relating to Constable Puran Bahadur wherein the respondents conducted a disciplinary inquiry against this Constable on the charge that he gave false information and wrongly filled up the attestation form at the time of recruitment. Based on this notice and order, learned counsel for the petitioner has contended that the respondents have

themselves accepted the position the principles of natural justice are required to be complied with before proceeding to terminate the services of a CISF personnel on such allegations which cast caused a stigma on his character and drastically impact his future.

17. In the given facts the respondents ought to have issued notice to show cause to the petitioner as in the other cases. The respondents ought to have considered the reply. Grave injustice has resulted to the petitioner whose services were unfortunately terminated in the summary manner on 21st August, 2008 without giving any regard to the relevant facts. Perhaps if the petitioner had been afforded opportunity to show cause, the true facts would have been revealed.

18. The learned counsel for the respondents has drawn our attention to the fact that after the filing of this writ petition, the petitioner has approached the High Court of Judicature for Rajasthan by way of SB Civil W.P. No.3821/2010 seeking the same relief as has been sought herein. Learned counsel for the petitioner submits that the petitioner has taken steps for withdrawal of the said petition. We find that copy of order dated 13th August, 2010 permitted the petitioner to withdraw the writ petition which was filed in the Rajasthan High Court has been placed on record. It is admitted position that the present writ petition is prior writ petition and consequently there is no legal impairment for the adjudication and grant of relief to the petitioner.

19. In view of the above discussion, we hold and direct as follows:-

- (i) The order dated 21st August, 2008; 12th February, 2009 and 22nd May, 2009 and any other order confirming the termination of the service of the petitioner are held to be arbitrary and illegal and hereby set aside and quashed.
- (ii) The petitioner shall stand reinstated in service w.e.f. 21st August, 2008 with all consequential benefits including continuity of service, seniority benefit and monetary benefits, etc.

20. We make it clear that this order has been passed in the peculiar facts and circumstances of this case and keeping in view the grave injustice which has been done to the petitioner.

21. Dasti.

GITA MITTAL, J

J.R. MIDHA, J

AUGUST 26, 2010

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