

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No. 758 of 2010

S. Giran Singh

...Petitioner/s

Vs.

Union of India & 3 ors.

...Respondent/s

**B E F O R E
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH**

30-08-2023

Heard Mr. A. Mohendro, learned counsel appearing for the petitioner and Mr. S. Samarjeet, learned senior panel counsel appearing for the respondents.

[2] The present writ petition has been filed with a prayer, inter alia, for quashing and setting aside the order dated 03-07-2006 (Annexure-A/3) to the writ petition issued by the Commandant, 16th Bn. SSB, Adabari, Assam, declaring the petitioner as 'Deserter' w.e.f. 03-04-2006 under Rule 31 of CRPF Rules, 1955 for continuous absence/OSL of more than 60 days. The present writ petition was earlier allowed by an order dated 15-04-2011 passed by this Court thereby quashing and setting aside the impugned order and directing the authorities to reinstate the petitioner in service within a period of three months with the further direction that the period from 03-04-2006 till the date of reinstatement in service shall be treated as on duty. It has been submitted at the bar that pursuant to the said order passed by this Court, the petitioner has been reinstated in service and he is still continuing in service till today. Subsequently, the order dated 15-04-

2011 passed by this Court was challenged by the authorities by filing a writ appeal being WA No. 41 of 2013 before the Division Bench of this Court. The said writ appeal was allowed by the learned Appellate Court by setting aside the impugned order passed by the learned Single, however, the appellate court also directed that as the petitioner was already reinstated in service, he should be allowed to continue in service but with the condition that his reinstatement will be subject to the result of this writ petition.

[3] Mr. S. Samarjeet, learned senior panel counsel appearing for the respondents draw the attention of this Court to the order dated 26-10-2007 issued by the Commandant, 16th Bn. SSB imposing to the petitioner the penalty of removal from service w.e.f. 03-04-2006. In the said order, the petitioner was informed that he has the right to submit an appeal as provided under the Rule within 30(thirty) days. Mr. Samarjeet, learned senior panel counsel submitted that the order of removal was issued by the authorities after holding a proper Departmental Inquiry and the petitioner has not assailed the order till today. The learned counsel further submitted that since the petitioner has not assailed the said removal order, there is no cause for adjudication on merit in the present writ petition and it can be dismissed as infructuous.

[4] On the other hand, Mr. A. Mohendro, learned counsel appearing for the petitioner submitted that the petitioner has already submitted an appeal dated 12-08-2023 to the Dy. Inspector General,

16th Bn. SSB against the removal order dated 26-10-2007 and the said appeal is yet to be considered and disposed of by the appellate authority. It has also been submitted by the learned counsel for the petitioner that the present writ petition can be disposed of by directing the Dy. Inspector General, 16th Bn. SSB to consider the statutory appeal filed by the petitioner on its own merit and in terms of the applicable Rules and to dispose of the same by issuing a speaking order within a stipulated period. The learned counsel further submitted that since the petitioner is still continuing in service, his continuance in service may be subject to the outcome or the result of the said statutory appeal.

[5] I have heard the learned counsel appearing for the parties at length and also carefully examined the materials available on record. As the petitioner has availed the opportunity of filing a statutory appeal against the order of his removal from service by submitting an appeal dated 12-08-2023 to the Dy. Inspector General, 16th Bn. SSB, it will be in the interest of justice to dispose of the present writ petition with the following directions :

- (i) the petitioner is directed to submit a copy of the said appeal dated 12-08-2023 to the Dy. Inspector General, 16th Bn. SSB afresh along with a copy of this order within a period of two weeks from today;

(ii) in the event of submitting of such an appeal by the petitioner within the time prescribed herein above, the Dy. Inspector General, 16th Bn. SSB shall consider the said appeal on its own merit and in terms of applicable rules and to dispose of the same by issuing a speaking order within a period of three months from the date of receipt of the said appeal.

(iii) it is made clear that the continuance of the petitioner in service shall be subject to any order passed by the Dy. Inspector General, 16th Bn. SSB in connection with the appeal filed by the petitioner.

[6] Needless to mention here that if the petitioner failed to submit the said appeal as contemplated herein above, the respondents are at liberty to pass any appropriate order in connection with the service condition of the petitioner.

[7] With the aforesaid directions, the present writ petition is disposed of.

JUDGE

Dhakeshori

LAISHRAM
DHAKESH
ORI DEVI

Digitally signed
by LAISHRAM
DHAKESHORI
DEVI
Date: 2023.08.30
13:36:32 +05'30'