

GAHC010120462022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4149/2022

BIMAL RAY
FORCE NO- 175133995,
RANT- CT/GD,
S/O- LT. HARI KISHORE RAY,
VILL- KATHALGURI,
P.O- SIMOLUGURI (SIDLI),
P.S- DHALIGAON,
DIST- CHIRANG (BTAD), ASSAM,
PIN-783381

VERSUS

THE UNION OF INDIA AND 4 ORS
REP BY THE COMMISSIONER SECRETARY TO THE GOVT OF INDIA,
MINISTRY OF HOME AFFAIRS, NEW DELHI-110001

2:THE DY INSPECTOR GENERAL OF POLICE
GC
CRPF
9TH MILE
AMERIGOG
GUWAHATI
ASSAM
GUWAHATI-23

3:THE DY INSPECTOR GENERAL OF POLICE
DIGP GROUP CENTRE
CRPF
JAHODA KALAN
NEW DELHI-110072

4:THE DEPUTY INSPECTOR GENERAL

RANGE NEW DELHI
CRPF
R.K PURAM
NEW DELHI

5:THE COMMANDANT 54 BATTALION
CRPF
C/O- 56
A.O SRINAGAR (JAMMU AND KASHMIR)

Advocate for the Petitioner : MR MINTU SAIKIA

Advocate for the Respondent : ASSTT.S.G.I.

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 02-05-2023

Heard Mr. M. Saikia, learned counsel for the writ petitioner. Also heard Ms. B. Sarma, learned CGC appearing for the respondent.

2. The petitioner has approached this Court by filing this writ petition, assailing the order of termination from service dated 30-04-2021 issued by the Commandant, 54 Bn. Central Reserve Police Force (CRPF), i.e. the respondent No. 5. The petitioner herein was earlier provisionally appointed in the post of Constable in the CRPF on the basis of offer of appointment dated 26-04-2017. As per the terms of the appointment, the petitioner was to remain on probation for a period of 02 years where-after, he will be considered for confirmation. The offer of appointment dated 26-04-2017 had also clearly mentioned that the service of the petitioner will be liable to be terminated without assigning any reason, upon giving one month's notice during the initial period of 02 years, in accordance with Central Civil Services (Temporary Services) Rules, 1965 (in short "Rules of 1965"). During

the continuation of probation period, the authorities found that the petitioner had overstayed his leave. That apart, it was also detected that the petitioner had submitted a fake matriculation certificate in support of his candidature, based on which, the offer of appointment dated 26-04-2017 was issued. Upon detection of the aforesaid fact, the impugned order dated 30-04-2021 was issued by invoking the provision of Rules 5(1) of the Rules of 1965. Assailing the order dated 30-04-2021, the petitioner has approached this Court, *inter-alia*, contending that he was not given any opportunity of being heard before the impugned order was issued. Therefore, the impugned order had been issued in violation of the principles of natural justice.

3. Ms. B. Sarma, learned CGC, on the other hand, has invited the attention of this Court to the documents annexed to the counter affidavit filed on behalf of the official respondents to submit that the petitioner has admitted that he had used fake certificate to show that he had passed matriculation examination, based on which, the offer of appointment was issued. Since the petitioner has admitted his involvement in forgery, hence, instead of initiating departmental enquiry, the petitioner was discharged from service since he was still on probation. It is also the submission of Ms. Sarma that as per Rule 5(1) of the Rules of 1965 read with the terms and conditions of service, one month's notice was duly served upon the petitioner. Under the circumstances, in the facts and circumstances of the case, there is no scope for interference with the impugned order of termination of service dated 30-04-2021 by this Court. In support of her above argument Ms. Sarma has placed reliance on a recent decision of this Court rendered in the case of ***Ex CT/GD 041711898 Hanif Ali Vs. UoI & Ors. [W.P.(C) No. 1055/2020]*** to argue

that since there is no stigma attached to the impugned order of termination, there was no requirement for hearing the petitioner before issuing the order of discharge.

4. I have considered the submission made at the bar and have also gone through the materials available on record. It is the admitted position of fact that the petitioner got his offer of appointment dated 26-04-2017 by using a fake matriculation certificate. The aforesaid certificate was admittedly manipulated by the petitioner by superimposing his name on the certificate of another candidate. Subsequently, the petitioner had passed matriculation but he has stated that since he was keen to join the force, he had resorted to aforesaid forgery of documents so as to avail the opportunity.

5. It is also the admitted position of fact that the initial appointment of the petitioner was on probation for a period of 02 years but the petitioner's services were not confirmed after the completion of 02 years of probation period. If that be so, it is evident that the petitioner continued to remain on probation even beyond the period of 02 years. Since he has admitted of having used a fake matriculation certificate, the authorities instead of holding a regular enquiry, have decided to discharge him from service with one month's notice by issuing the impugned order dated 30-04-2021. The impugned order, on the face of it, does not cast any stigma on the petitioner but is an order of termination simpliciter issued in exercise of power under Rule 5(1) of the Rules of 1965.

6. There is no dispute about the fact that the petitioner had resorted to forgery and used a fake certificate for getting the offer of appointment. Therefore, considering the fact that he was still on probation at the time issuance of order of discharge/ termination of service, I am of the view that the impugned order dated 30-04-2021 does not suffer

from any infirmity. Moreover, on the face of the admission made by the writ petitioner, as noted above, remanding the matter back for fresh decision by the authorities after hearing the petitioner would be a useless formality. Law is well settled that in case of probationer, the authorities would be entitled to issue an order of discharge instead of holding a regular enquiry for proving the guilt of the employee. Such a recourse would be permissible when the order of termination does not cast a stigma on the employee.

For the reasons stated here-in-above, I am of the opinion that there is no merit in this writ petition and the same is, accordingly, dismissed.

JUDGE

GS

Comparing Assistant