



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

Case No. : WP(C)/7167/2013

F/NO.921121652 C/GD BHIM RAM B/175 BN,CRPF
S/O- RAJNETI RAM, R/O VILL.- SONPA, P.O.- SONPA, P.S.- RAJPUR, PIN-
802114, DIST.- BUXAR, BIHAR, PRESENT COMMUNICATION ADDRESS- HQ/
175 BN CRPF, RANI GUWAHATI, KAMRUP, ASSAM.

VERSUS

THE UNION OF INDIA and 5 ORS
REP. BY THE SECY., GOVT. OF INDIA/MINISTRY OF HOME AFFAIRS
NORTH-EASTERN SECTOR, NEW DELHI.

2:THE DIRECTOR GENERAL
CENTRAL RESERVE POLICE FORCE
CENTRAL GOVT. OFFICE COMPLEX NEW DELHI.

3:THE INSPECTOR GENERAL OF POLICE NORTH EASTERN SECTOR
CENTRAL RESERVE POLICE FORCE SHILLONG.

4:THE DY. INSPECTOR GENERAL OF POLICE D.I.G.P.
RANGE H.Q. C.R.P.F. SILCHAR ASSAM.

5:THE ADDL. DY. INSPECTOR GENERAL OF POLICE ADDL. D.I.G.P.
CENTRAL RESERVE POLICE FORCE GROUP CENTRE
GUWAHATI 9TH MILE AMERIGOG ASSAM PIN- 781023.

6:THE COMMANDANT CENTRAL RESERVE POLICE FORCE
175 BN. RANI KAMRUP ASSAM

Advocate for the Petitioner : MR.M PHUKAN

Advocate for the Respondent : MR.S K MEDHI

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

Date of hearing : 20.03.2024

Date of Judgment : 20.03.2024

Judgment & order(Oral)

Heard Mr. Rajesh Mazumdar, learned counsel, appearing on behalf of the petitioner. Also heard Mr. S. K. Medhi, learned CGC, appearing on behalf of all the respondents.

2. The petitioner by way of instituting the present writ petition, has presented a challenge to an order, dated 03.06.2013, by which, while imposing upon the petitioner a penalty of stoppage of increment for a period of 3 years with cumulative effect; the period of his suspension and also the period of his absence involved, were directed to be treated in a manner which, according to him, is contrary to the procedure mandated.

3. The facts requisite for adjudication of the issues arising in the present proceeding is noticed as hereunder:

The petitioner, herein, was recruited as a constable in the Central Reserve Police Force in the year 1992. In the year 2006; when working as a constable with the 175 Battalion, Central Reserve Police Force, Raipur, he came to be hospitalized on 08.05.2006, at Dr. B.R. Ambedkar Memorial Hospital, for ailments suffered by him. The petitioner was discharged from the said hospital on 12.05.2006 and as his condition has not improved; he proceeded to his

hometown to receive better treatment, therein, till December, 2006. The petitioner on 18.12.2006, while travelling by 5636 Down Usha Express, was arrested in connection with Rangia G.R.P.S. Case No. 04/2007 for allegations under Section 20(b) of the NDPS Act. In view of the fact that the petitioner came to be placed under detention and the said information having been received by his employer, the petitioner vide an order, dated December, 2006, was placed under suspension with effect from the date he was so detained in connection with the criminal case pending against him i.e. w.e.f. 18.06.2012. The said order of suspension was followed by initiation of a departmental proceeding against the petitioner in the month of February, 2007. The petitioner vide the Memorandum, dated February, 2007, was charged with 2 articles of charge. The first article of charge pertains to the misconduct committed by the petitioner in remaining absent w.e.f. 12.05.2006, without obtaining prior permission from the competent authority and the second charge pertains to his arrest in connection with the criminal case and his placement under detention.

It is to be noted that when the said memorandum of charge was so issued, the petitioner was under detention in connection with the criminal case as instituted against him.

During the pendency of the said departmental proceeding as instituted vide the memorandum of charge, dated February, 2007; the petitioner was convicted by the learned trial Court in the criminal case as instituted against him vide the judgment & order, dated 03.08.2007. The petitioner having been so convicted in connection with the criminal case pending against him; the disciplinary authority vide order, dated 14.01.2008, proceeded to consider the

said aspect of the matter and on consideration of the same, holding that the charge No. 2 levelled against the petitioner, to have been established; the disciplinary authority imposed a penalty of dismissal from service upon the petitioner. Further the period of suspension of the petitioner w.e.f. 18.12.2006 till the date of the issuance of the order i.e. 14.01.2008, was directed to be limited to the subsistence allowance so drawn by him. It was also provided that the period of absence of the petitioner from 12.05.2006 till 17.12.2006 would be treated as "dies non".

The petitioner being aggrieved by the said judgment & order, dated 03.08.2007, instituted a criminal appeal being CrI.A. 230/2007 before this Court. This Court on consideration of the matter, vide judgment & order, dated 19.01.2012, proceeded to set aside the order of conviction and sentencing of the petitioner, herein, and acquitted the petitioner on the benefit of doubt from the charges as levelled against him in the said criminal case.

On the said order being so passed by this Court; the petitioner preferred an appeal, dated 06.04.2012, before the concerned authorities of the Force, praying for revocation of his order of dismissal in view of the order passed by this Court in CrI.A. 230/2007. The appellate authority vide order, dated 10.12.2012, on appreciating the fact that the petitioner was acquitted in the criminal case as instituted against him; proceeded to hold that the charge no. 2 as levelled against the petitioner in the departmental proceeding so initiated against him, got dissolved and taking a compassionate view of the appellant's tender age, his socio-economic background and the present family hardship that he is facing, directed for reinstatement of the petitioner in his service. However,

it was provided that the Commandant, 175 Battalion, Central Reserve Police Force, i.e. the disciplinary authority of the petitioner, herein, shall re-institute the departmental proceeding as instituted against the petitioner earlier and proceed therein, in respect of the article of charge No. 1 so levelled against him after resumption of duties by the petitioner, herein.

The departmental proceeding as instituted against the petitioner was, thereafter, continued with in respect of the article of charge No. 1 and on conclusion of the same and the report of the Inquiry Officer having been brought on record; the disciplinary authority vide order, dated 03.06.2013, proceeded to impose the following penalties upon the petitioner:

“a) That the period of suspension of C/GD Bhim Ram from 18.12.06 to 14.01.2008 shall be termed "As such" and he shall not be entitled to any other amount except the maintenance allowance already paid to him during the said period.

b) That the period of absence (12.05.06 to 17.12.06 and 15.01.08 to 01.01.2013) shall be considered "DIES NON" for all purposes.

c) That C/GD Bhim Ram is punished with "stoppage of increment for a period of three years with commutative effect".

d) That under provisions of Rule 17 and 25 of the Pension regulations he will be considered eligible for pension on the expiry of his service term.

4. Being aggrieved by the same; the petitioner has instituted the present proceeding.

5. Mr. Mazumdar, learned counsel for the petitioner, by taking this Court through the materials brought on record including the order impugned in the present proceeding, has submitted that the penalty of stoppage of increment for

a period of 3 years with cumulative effect is not a penalty as prescribed under the provisions of Section 11(1) of the Central Reserve Police Force Act, 1949. In this connection, he has placed reliance upon a decision of a co-ordinate bench of this Court in the case of ***Rahul Kumar v. Union of India & ors.***, reported in ***2019 (5) GLT 544***. Accordingly, he has submitted that the said penalty being not the one so prescribed under the provisions of the Act and the Rules governing the service of the petitioner, herein; the same cannot be so implemented.

6. Referring to the manner in which the period of suspension and also the period of absence of the petitioner was also dealt with vide the impugned order, dated 03.06.2013, Mr. Mazumdar, learned counsel for the petitioner, with regard to the period of absence w.e.f. 12.05.2006 till 17.12.2006, has submitted that the petitioner was incapacitated from joining his service on account of the ailments suffered by him during the relevant period of time. The petitioner in support of his said contention, had brought on record before the disciplinary authority as well as in the inquiry held, the requisite medical certificates. However, the same were not taken into consideration by the authorities. Accordingly, the said period of absence could not have been so declared by the disciplinary authority as "dies non" in-as-much as the petitioner had submitted a due explanation for his absence during the said period of time and accordingly, requires this Court to interfere with the manner in which the period w.e.f. 12.05.2006 till 17.12.2006; was so considered.

7. With regard to the manner in which the period of absence w.e.f. 15.01.2008 till 01.01.2013, was so considered; Mr. Mazumdar, learned counsel

for the petitioner, has submitted that said period of absence was forced upon the petitioner in-as-much as vide an order, dated 14.01.2008, on his conviction in the connected criminal case; the disciplinary authority had imposed upon the petitioner, the penalty of dismissal from service and the said order continued to remain in force till he was reinstated in his service in pursuance to the orders passed by the appellate authority vide order, dated 10.12.2012, and accordingly, the said period of absence of the petitioner could not have been so construed to be treated as "dies non" by the respondent authorities and accordingly, the petitioner has prayed that the manner in which the said period was treated to be "dies non"; be interfered with by this Court.

8. Mr. Medhi, learned CGC, has submitted that the petitioner having deserted from his service w.e.f. 12.05.2006 and having not responded to the communications issued to him to resume his service; the said period of his absence have to be deemed to be unauthorized. The learned CGC has also submitted that the petitioner had from time to time submitted applications intimating the fact that he had got discharged from the hospital wherein he was so admitted at his own request for the purpose of receiving better treatment at his hometown. Thereafter, it is contended by the learned CGC that the petitioner having been so detained in connection with a criminal case; he was placed under suspension and a departmental proceeding was so instituted against him. This Court in a criminal appeal preferred by the petitioner against the judgment & order of the learned trial Court having interfered with the conviction and sentencing of the petitioner therein; the appellate authority in response to an appeal submitted in the matter by the petitioner, had directed for reinstatement of the petitioner in his service and he having not been exonerated from the

charge no. 1, a disciplinary proceeding in this connection was directed to be continued after his joining. It was further contended that the disciplinary proceeding having been concluded; the disciplinary authority had issued the order, dated 03.06.2013, and the same has been contended to have been so issued basing on the materials coming on record in the inquiry.

9. Mr. Medhi, learned CGC, has further submitted that the charge as levelled against the petitioner having been established; the period of suspension undergone by the petitioner is held to be justified and accordingly, the decision of the disciplinary authority that the petitioner would not receive for the said period, anything more than the subsistence allowance already drawn by the petitioner, being not erroneous; would require no interference from this Court.

10. With regard to the 2(two) periods of absence, Mr. Medhi, learned CGC, has submitted that the period of absence w.e.f. 12.05.2006 and 17.12.2006, being admittedly a period of unauthorized absence; the petitioner is not entitled to any pay and/or allowances for the said period and accordingly, the decision of the disciplinary authority with regard to the manner in which the said period is to be so treated, would not call for any interference from this Court.

11. Mr. Medhi, learned CGC, by drawing the attention of this Court to the judgment & order, dated 19.01.2012, in CrI.A. 230/2007, has contended that the acquittal of the petitioner is so based on a benefit of doubt and accordingly, the petitioner would not be entitled to have any pay and/or allowances for the said period during which he had remained out of service i.e. w.e.f. 15.01.2008 to

01.01.2013, and accordingly, he has submitted that the disciplinary authority had not committed any error in the matter requiring the interference by this Court with the order, dated 03.06.2013.

12. I have heard the learned counsels appearing for the parties and also given due consideration to the materials placed on record.

13. The facts as set-out herein, in the present order, is not disputed by the learned counsels for the parties. However, the petitioner questions the penalty as imposed upon him vide the order, dated 03.06.2013, to the extent that the same is not the one prescribed under the Act and the Rules governing his service and also has raised a grievance with regard to the manner in which the period of his suspension as well as the period of his absence were so treated by the disciplinary authority. The above being the position; this Court would not burden this order by reiterating the facts again, herein, and would now only consider the validity of the penalty as well as the manner in which the period of absence of the petitioner was so treated vide the order, dated 03.06.2013. Initially, the penalty as imposed upon the petitioner vide the order, dated 03.06.2013 i.e. "stoppage of increment for a period of 3 years with cumulative effect", is being so considered.

14. The said issue is no longer *res integra* and a coordinate Bench of this Court in the case of **Rahul Kumar**(supra); upon examination of the said issue; had drawn the following conclusions:

"12. A perusal of the records gives the impression that a recommendation of leave of the petitioner was made, based on which, it was observed that the petitioner may be

permitted to proceed on leave, if approved. In the same recommendation, even observation has been made upon whom the petitioner would handover charge in case of going for leave. Though ultimately the leave was not granted at that time with the observation "his leave will be sanctioned after submission of pending works", based on the said recommendation, the petitioner had left the headquarter.

13. Section 10 of the Central Reserve Police Force Act, 1949 lays down certain offences which have been termed as less heinous amongst others the offence of absence without leave finds place in 10(m). Section 11 given the minor punishments and five points of final punishment has been mentioned.

- a. Reduction in rank.*
- b. Fine of any amount not exceeding 1 month's pay and allowances.*
- c. Confinement to quarter line or camp for the terms not exceeding one month.*
- d. Confinement in the quarter guard for not more than 28 days with or without punishment deal or extra guard fatigue or other duty and*
- e. Removal from any office of distinction or special emolument in the Force.*

14. It is seen that the Act does not prescribe for the penalty of stoppage of annual increment with cumulative effect. However, in the Rules framed there under namely the Central Reserve Police Force Rules 1955, more specifically Rule 27, the procedure for imposition of punishment is laid down. In the table appended thereto, in serial no.7 "stoppage of increment" finds place. However, even in the Rules, there is no mention about "cumulative effect". The difference between the penalty of "stoppage of increment" and "stoppage of increment with cumulative effect" is a major difference where the later penalty is more severe where the stoppage of increment is for all times to come.

15. Considering the rival submissions made by the parties, no doubt the service of the petitioner is in a discipline force, the penalty inflicted has to be tested vis-a-vis the nature and gravity of the charge. The record reveals that there was indeed a recommendation for grant of leave to the petitioner and the same recommendation per se was not rejected. Only the condition was imposed that the leave would have sanctioned after completion of the pending works. However, based on the said recommendation, the petitioner had already left the headquarter after handing over the charge to one Mahesh Sen which was also done as per the recommendation. Ideally, the petitioner should have left the station after ascertaining that leave was duly sanctioned and leaving the station prior to grant of such sanction and only on the strength of the recommendation can perhaps be the only fault of the petitioner. However, the petitioner stated that there was an emergent situation for which he had to leave. In view of the same, it cannot be said, that petitioner had a deliberate intention to remain absent without grant of leave. However, it is also a fact that the petitioner was directed to report back to duties which he failed to do so. This fact has been admitted by the petitioner, however by giving certain explanation regarding his wife's illness.

16. Future prospect of the petitioner is relevant factor to be considered while taking a decision to impose penalty in a disciplinary proceeding which is seemed to be done in the instant case. However, the penalty imposed of stoppage of annual increment with cumulative effect for 1 year apart from being harsh vis-a-vis the nature of charge read

with the explanation, is not a prescribed penalty either in the Act or the Rules. As held by the Hon'ble Apex Court in the case of State Bank of India (supra) the authorities cannot impose any penalty which is not one of the enumerated penalties under the rules in force. This Court exercising powers under Article 226 of the Constitution of India can, in appropriate cases mould the relief to minimise litigation and the time undertaken in such litigation. In this connection, one may refer to the landmark judgment of the Hon'ble Apex Court laid down in the case of B.C. Chaturvedi v. Union of India & Others, reported in (1995) 6 SCC 749."

15. This Court is in respectful agreement with the conclusions so drawn in the case of **Rahul Kumar**(supra) and accordingly, applying the same to the facts of the present case, it is found that the penalty of withholding of increment for a period of 3 years with cumulative effect, is not a penalty so prescribed under the Act and the Rules holding the field and accordingly, the said penalty is required to be modified by this Court.

16. Having considered the penalty as imposed upon the petitioner; this Court would now consider the manner in which the period of absence of the petitioner was so treated by the disciplinary authority vide order, dated 03.06.2013.

17. At first, the manner in which the period of suspension of the petitioner was so treated, is being considered.

18. The period of suspension w.e.f. 18.12.2006 till 14.01.2008, was so necessitated on account of the fact that the petitioner was placed under detention in connection with a criminal case. The petitioner having been subsequently acquitted in the said criminal case; the said period of suspension does not stand justified.

19. FR 54(b) of the Fundamental Rules and Supplementary Rules(FRSR) deals with the manner in which a period of suspension is to be so considered on the reinstatement of the government servant concerned.

20. FR 54(b)(5) provides that in cases other than those falling under the sub-rules 2 & 3; the government servant shall subject to the provisions of sub-rules 8 & 9 be paid such amount of pay and allowances to which he would have been entitled had he not been suspended, as the competent authority may determine, after giving notice to the government servant of the quantum proposed and after considering the representation if any submitted by him in that connection within such period as may be specified in the notice. Herein, the respondent authorities having not held the period of suspension to be wholly unjustified, the provisions of FR 54(b)(5) would apply and accordingly, before the said period of suspension is treated, a notice to the petitioner intimating to him the quantum of pay and allowances which he would be entitled to, was required to be made to the petitioner, herein. However, the said course of action had not been followed and accordingly, the manner in which the period of suspension of the petitioner was so considered; would call for an interference from this Court and accordingly, the same stands interfered with by this Court.

21. This would bring this Court to consider the manner in which the period of absence of the petitioner w.e.f. 12.05.2006 to 17.12.2006, would now be required to be considered. The petitioner was admittedly absent from his service during the said period of time, however, he has contended that the said absence was so necessitated on account of the treatments received for the ailments suffered by him. Accordingly, the respondent authorities having not considered

the medical certificates produced by the petitioner in justification of his absence for the said period i.e. w.e.f. 12.05.2006 to 17.12.2006; this Court is of the considered view that the treating by the disciplinary authority of the said period of absence as "dies non" vide the order, dated 03.06.2013, was clearly disproportionate and accordingly, the same would also call for an interference from this Court.

22. This now brings this Court to consider the manner in which the period of absence of the petitioner w.e.f. 15.01.2008 to 01.01.2013, was so considered. As noticed hereinabove, the said period of absence was forced upon the petitioner on account of imposition of the penalty of dismissal from service on him vide the order, dated 14.01.2008 in pursuance to his conviction by the learned trial Court in the criminal case as instituted against him. The petitioner, thus, continued to remain out of service till he was so reinstated in pursuance to the appellate authority's order, dated 10.12.2012.

23. The above-noted period of absence of the petitioner would be covered by the provisions of FR 54 of the Fundamental Rules and Supplementary Rules(FRSR). For a ready reference; the FR 54 is extracted hereinbelow in its entirety:

"Fundamental Rules 54:-

[1] When a Government servant who has been dismissed, removed or compulsorily retired is reinstated as a result of appeal or review or would have been so reinstated but for his retirement on superannuation while under suspension or not, the authority competent to order reinstatement shall consider and make a specific order -

[a] regarding the pay and allowances to be paid to the Government servant for the period of his absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be;

[b] whether or not the said period shall be treated as a period spent on duty.

[2] Where the authority competent to order re-instatement is of opinion that the Government servant who had been dismissed, removed or compulsorily retired has been fully exonerated, the Government servant shall, subject to the provisions of sub-rule [6], be paid the full pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be :

Provided that where such authority is of opinion that the termination of the proceedings instituted against the Government servant had been delayed due to reasons directly attributable to the Government servant it may, after giving him an opportunity to make his representation within sixty days from the date on which the communication in this regard is served on him and after considering the representation, if any, submitted by him, direct, for reasons to be recorded in writing, that the Government servant shall, subject to the provisions of sub-rule [7], be paid for the period of such delay, only such amount [not being the whole] of such pay and allowances as it may determine.

[3] In a case falling under sub-rule [2], the period of absence from duty including the period of suspension preceding dismissal, removal or compulsory retirement, as the case may be, shall be treated as a period spent on duty for all purposes.

[4] In cases other than those covered by sub-rule [2], including cases where the order of dismissal, removal or compulsory retirement from service is set aside by the appellate or reviewing authority solely on the ground of non-compliance with the requirements of Clause [1] or Clause [2] of Article 311 of the Constitution and no further inquiry is proposed to be held the Government servant shall, subject to the provisions of sub-rules [5] and [7], be paid such amount [not being the whole] of the pay and allowances to which he would have been entitled, had he not been dismissed, removed or compulsorily retired or suspended prior to such dismissal, removal or compulsory retirement, as the case may be, as the competent authority may determine, after giving notice to the Government servant of the quantum proposed and after considering the representation, if any, submitted by him in that connection within such period [which in no case shall exceed sixty days from the date on which the notice has been served] as may be specified in the notice.

Provided that, if the Government servant so desires, such authority may direct that the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall be converted into leave of any kind due and admissible to the Government servant.

[5] In a case falling under sub-rule [4], the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall not be treated as a period spent on duty, unless the competent authority specifically directs that it shall be treated so for any specified purpose:

Provided that, if the Government servant so desires, such authority may direct that the period of absence from duty including the period of suspension preceding his dismissal, removal or compulsory retirement, as the case may be, shall be converted into leave of any kind due and admissible to the Government servant.

Note 1- The order of the competent authority under the preceding proviso shall be absolute and no higher sanction shall be necessary for the grant of-

[a] extraordinary leave in excess of three months in the case of temporary Government servant; and

[b] leave of any kind in excess of five years in the case of permanent or quasi permanent Government servant.

Note 2.- In the case falling under sub-rules [4] and [5] of F.R. 54 the competent authority may pay such proportion of such pay and allowances as is admissible under FR. 53 read with sub-rule (7) of F.R. 54 with prior concurrence of Finance Department.

[6] The payment of allowances under sub-rule [2] or sub-rule [4] shall be subject to all other conditions under which such allowances are admissible.

[7] The proportion of the full pay and allowances determined under the proviso to sub-rule [2] or under sub-rule [4] shall not be less than the subsistence allowance and other allowances admissible under Rule 53.

[8] Any payment made under this rule to Government servant on his reinstatement shall be subject to adjustment of the amount, if any, earned by him through an employment during the period between the date of removal, dismissal or compulsory retirement, as the case may be, and the date of reinstatement. Where the emoluments admissible under this rule are equal to or less than the amounts earned during the employment elsewhere, nothing shall be paid to the Government servant.

24. The period of absence of the petitioner w.e.f. 15.01.2018 till 01.01.2013, was treated by the authorities as "dies non". It is to be noted that in service jurisprudence, to apply the concept of "dies non"; it must be established that the absence from duty by an employee was willful and unauthorized. The absence of the petitioner for a period w.e.f. 15.01.2008 till 01.01.2013, cannot, by any stretch of imagination, to be held to be one which was willful and unauthorized. Accordingly, the manner in which the said period of absence of the petitioner would be so considered; would be governed by the provisions of FR 54 and the respondent authorities would be required to treat the said period of absence of the petitioner, strictly, in accordance with the provisions of the FR 54.

25. Considering the provisions of FR 54; this Court is of the considered view that before the period of his absence in pursuance to the imposition of the penalty of dismissal from his service is considered; the petitioner ought to have been issued with a notice in the matter which, admittedly, was not been so issued and the order, dated 03.06.2013, was so issued without affording the petitioner, an opportunity of hearing. Accordingly, the treating of the said period of absence w.e.f. 15.01.2008 till 01.01.2013 as "dies non"; cannot stand the scrutiny of law and accordingly, the same stands interfered with by this Court.

26. In view of the above conclusion; the following directions are being issued by this Court with regard to the penalty as imposed upon the petitioner as well as the manner in which his period of suspension and absence, is now required to be considered:

(i). The penalty as imposed upon the petitioner i.e. "stoppage of increments for a period of 3 years with cumulative effect" is set aside and the same is now to be treated as a penalty so imposed of "stoppage of increments for a period of 3 years without cumulative effect".

(ii). The period of suspension of the petitioner w.e.f. 18.12.2006 till 14.01.2008 would now be re-considered afresh by the respondent authorities after issuing to the petitioner a notice as contemplated under Section 54(b)(5) of the Fundamental Rules and Supplementary Rules(FRSR) and thereafter, the authorities would pass a speaking order treating the said period strictly complying with the provisions of FR 54(b).

(iii). As regards the period of absence of the petitioner w.e.f. 12.05.2006 to 17.12.2006 is concerned; this Court having interfered with the treating of the same as "dies non", it is made clear that for the said period of absence; the petitioner would not be entitled to any pay. However, the said period would be notionally considered for the purpose of his pay and allowances as well as for calculation of his pension and pensionary benefits.

(iv). With regard to the period of absence w.e.f. 15.01.2008 till 01.01.2013; it is provided that the same would also not be treated as "dies non" and by following the provisions of FR 54; the disciplinary authority after affording a reasonable opportunity of hearing to the petitioner, herein; shall consider afresh the manner in which the said period is to be so treated and would pass a fresh order in accordance with the provisions of FR 54 of the Fundamental Rules and Supplementary Rules (FRSR).

(v). The above exercise now required to be carried out by the respondent authorities in terms of the above directions shall be undertaken and completed as expeditiously as possible but within an outer limit of 3 months from the date of submission of a certified copy of this order by the petitioner, herein, to the respondent authorities.

(vi). It is hereby directed that the petitioner, herein, shall render due assistance and cooperation in completion of the said exercise by the

respondent authorities within the time-frame as stipulated by this Court.

27. With the above directions, this writ petition stands disposed of.

JUDGE

Comparing Assistant