

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2897 of 2000

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Harish Chandra Pandey, son of Shri Dhan Bahadur Pandey, resident of village +
P.O. Kanuwan, P.S. Bhawarpur, District Gazipur, Uttar Pradesh

.... Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, New Delhi
2. The Director General and Inspector General of Police, Central Reserve Police Force, C.C.O. Complex, Lodhi Road, New Delhi
3. The Inspector General of Police, Central Reserve Police Force, Sheikhpura, Patna
4. The Commandant, 126 Auxiliary Battalion, Central Reserve Police Force, Group Centre, Mokamah Ghat, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Adv.
For the Union of India : Mr. Anjani Kr. Sharan, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT

Date: 24-06-2015

This is an application seeking quashing of the office order bearing letter no. D.V.1/93-126 Aux. dated 27.02.1993, issued under the signature of the Commandant, 126 Aux. B.N. whereby and whereunder the service of the petitioner came to be terminated with effect from 26.02.1993 (FN). The petitioner has also sought for his reinstatement in the service of Central Reserve Police Force as Auxiliary Constable and other consequential benefits, consequent upon quashing of the said order dated 27.02.1993.



2. I have heard learned counsel for the petitioner as well as learned Standing Counsel representing the Union of India. Challenging the said order dated 27.02.1993, the petitioner had approached the Allahabad High Court by filing a writ petition being Civil Miscellaneous Writ Petition No. 16607 of 1994. In the said writ application a counter affidavit was filed on behalf of the Union of India, which has been brought on record by the petitioner by way of Annexure-7 to the present writ application. The Allahabad High Court dismissed the said writ application on the ground of lack of territorial jurisdiction by an order dated 07.02.2000, with a liberty to the petitioner to approach appropriate court in the State of Bihar. This is the circumstance in which the present writ application has been filed.

3. It is the case of the petitioner that he was recruited as Auxiliary Constable on 15.09.1989 and thereafter he was imparted three-months training in 125 BN., Central Reserve Police Force. Upon completion of training, he served at Durgapur upto 28.03.1990, whereafter he was transferred to Mokamah on 29.03.1990. The petitioner was transferred to Guwahati on 01.04.1990, where he served till 26.02.1993 and thereafter he was given a movement order to report the headquarters at Mokamah. It is his case that at Mokamah he was not allowed to join and upon enquiry, he was made to know that his service was terminated with effect from 27.02.1993. Learned

counsel for the petitioner has submitted that the said order dated 27.02.1993 was not communicated to the petitioner. However, the said letter has been brought on record by way of Annexure- 7/2 to the present writ application, which according to the petitioner was made available to him, only through the counter affidavit filed by the respondent-Union of India in Allahabad High Court.

4. No letter of appointment has been brought on record by the petitioner to demonstrate the nature of his initial appointment made in the year 1989. In the counter affidavit, which was filed by the Union of India in Allahabad High Court in Civil Miscellaneous Writ Petition No. 16607 of 1994, following statement was made in paragraph 24, which is being quoted hereinbelow for ready reference:-

“That in reply to the averments made in paragraphs 23, 24 and 25 of the writ petition, it is stated that since the petitioner was an employee contingency (daily wages basis), neither CCS (TS) Rules, 1965 nor CRPF Rules, 1955 are applicable on the petitioner, as such, question of giving permanent or quasi-permanent status does not arise. Therefore, issuing show-cause notice about termination of services is also not applicable in the case of the petitioner. The averments made in paragraph, contrary to it, are incorrect and denied.”

5. In view of the fact that the petitioner has not brought on record the initial appointment letter or any document on the basis of which the nature of his appointment can be ascertained and in view of the specific stand taken by the Union of India referred to in

paragraph 24 of the counter affidavit filed before the Allahabad High Court, no relief as sought for by the petitioner in the present writ application can be granted.

- 6. The application is, accordingly, dismissed.
- 7. There shall be no order as to costs.

(Chakradhari Sharan Singh, J.)

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