

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2848 of 2015

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V. Sathyanarayana Son of V. Jayram Nayak R/o Village Yadalankapalli,
P.S. Bukkapatnam, P.O. Marrala, District Anantpur (A.P.)

.... Petitioner/s

Versus

1. The Union of India
2. The Director General of Police, C.R.P.F. Bodhi Road, C.G.O. Complex, New Delhi
3. The Inspector General of Police, Bihar Sector, CRPF Patna (Bihar)
4. The Deputy Inspector General of Police, Bihar Sector CRPF Patna Bihar
5. The commandant 4th Battalian, CRPF OSAP Camp, Raigada (Orissa)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Mishra, Advocate.

For the Respondent/s : Mr. Sanjay Kumar (ASG)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 18-02-2015

Heard learned counsel for the parties as with regard to

the following relief prayed in this writ application:

"1. That this is an application for issuance of a writ of certiorari for quashing the order dt. 20.12.011 vide memo no. DV-1/2011-4 passed by the Commandant 4th B.N. C.R.P.F. OASAP Camp Raiyada, Orissa, whereby and whereunder the petitioner has been terminated from his services inter alia the following relief:

(a) The appellate order dt. 21.08.012 passed by Inspector General of Police, Bihar Sector, C.R.P.F., Patna be set aside.

(b) Respondents be directed to reinstate the petitioner in his service will all consequential benefits.

(c) The operation of the impugned orders may kindly be stayed till the disposal of this case."

2. Mr. Awadhesh Kumar Mishra, learned counsel for the petitioner, has submitted that once the petitioner was acquitted of the charge in the criminal case, his removal from service, on account of there being a criminal prosecution against him, automatically goes away and, therefore, the impugned order of

termination of the service of the petitioner dated 20.12.2011 or the consequential appellate order dated 21.08.2012 are bad both on fact and in law and, therefore, the petitioner would be entitled for being reinstated in service.

3. Learned Assistant Solicitor General appearing on behalf of the respondents, on the other hand, has submitted that the petitioner has suppressed two vital information. Firstly, he has suppressed the fact that at the time of entry in service, he had declared that no criminal case was pending against him though now, by his own production of the judgment of the trial court dated 16.05.2012, it becomes clear that Cr. No. 48/2010 for offence under Section 337 and 304-A of the Indian Penal Code was pending against the petitioner ever since 14.09.2010 and yet he had given a declaration at the time of seeking appointment that no criminal case was pending against him. He further explains that as a matter of fact, the petitioner had also moved earlier against the impugned order of his termination before the Andhra Pradesh High Court and that writ application was dismissed and even this fact has been suppressed in this writ application.

4. Mr. Mishra, learned counsel for the petitioner, submits that he has got no instruction from the petitioner as with regard to filing of any writ application by him in Andhra Pradesh

High Court against the same impugned order or its dismissal by the Andhra Pradesh High Court.

5. In the considered opinion of this Court, though belated in filing of this writ application after almost two to three years of the cause of action, by itself would be sufficient to dismiss this writ application but then even on merit the petitioner will have no case, when it is admitted by him that there was a criminal prosecution pending against him on the date of his seeking appointment in the Central Reserve Police Force (hereinafter referred to as 'the CRPF') and yet this vital information was withheld by him. The subsequent acquittal of the petitioner after order of his termination, therefore, will have no effect for his being reinstated in service inasmuch as the petitioner has been found guilty of suppressing this information regarding pendency of criminal case and procuring his appointment on a false misrepresentation.

6. This aspect of the matter has been decided by the Apex Court in the case of ***R. Radhakrishnan v. Director General of Police & Ors.*** reported in ***(2008) 1 SCC 660*** relying on an earlier judgment of the Apex Court in the case of ***Delhi Administration v. Sushil Kumar*** reported in ***(1996) 11 SCC 605***, wherein law has been laid down that on account of suppression of

material facts, the person appointed in the Force would be liable for dismissal from service.

7. That being so, this writ application must fail and is accordingly, dismissed.

(Mihir Kumar Jha, J)

Sujit/-

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