

THE HIGH COURT OF TRIPURA
AGARTALA

WP(C) 113 OF 2010

Sri Ajit Debbarma,
Ex.Const.No.880989626,
S/O. Har Kumar Debbarma,
Resident of Vill. Latiacherra,
P.O. & P.S. Bishramganj,
District- West Tripura.

..... **Petitioner.**

- V e r s u s -

1. The Union of India,
Notice to be served upon the
Secretary to the Government of India,
Ministry of Home Affairs,
New Delhi-110003.
2. The Director General of C.R.P.F.,
CGO Complex, Lodhi Road,
New Delhi-110003.
3. The Commandant,
127th Bn. C.R.P.F., C/O 99 APO,
Jharkhand.

..... **Respondents.**

BEFORE
HON'BLE THE CHIEF JUSTICE MR. DEEPAK GUPTA
HON'BLE MR. JUSTICE S.C. DAS

For the petitioner : Mr. K.N. Bhattacharji,
Sr. Advocate,
Mr. R. Debnath, Advocate.

For the respondents : Mr. A. Roy Barman, CGC.

Date of hearing and : 13.04.2015.
delivery of judgment
and order.

Whether fit for reporting : **NO.**

JUDGMENT & ORDER(ORAL)

(Deepak Gupta, C.J.)

By means of this petition, the petitioner who was serving in the CRPF has prayed that he be deemed to have been retired w.e.f. 04-05-2002 and pension be granted to him in terms of Rule 49 of the Central Civil Service (Pension) Rules (hereinafter referred to as the CCS rules).

2. The undisputed facts are that the petitioner was enrolled in the CRPF as constable on 07-07-1988. Thus, he had almost 14 years of service to his credit on 04-05-2002. The case of the petitioner as set out in the writ petition is that in the year 2002 the son of the petitioner died and the petitioner was under a shock. Being overwhelmed by grief, he could not understand what he had to do. According to the petitioner, his wife became ill because of the death of his son. He has also stated that the authorities were reluctant to grant him leave. Therefore, the petitioner sought advice of some other persons and filed an application seeking discharge but according to him, he did not understand the full import of the word "discharge".

3. On the other hand, the stand of the respondents is that the petitioner sought discharge from service and since he has been discharged, he is not entitled to any pension or other retiral benefits.

4. The petitioner had through his counsel sent a notice to the Union of India and the Director General of CRPF as well as the Commandant of 127 BN CRPF on 26-10-2009. In this notice admittedly sent on behalf of the petitioner, the petitioner has claimed benefit of Rule 49(2)(b) of the CCS rules. There is no allegation in this notice that he had not applied for discharge. There is no allegation in this notice that leave was ever refused to him. There is no allegation that he did not understand the import of his seeking discharge. In case, the petitioner had actually not voluntarily applied for discharge, then he would have mentioned this to his counsel and this would definitely have been mentioned when the notice was sent on behalf of the petitioner. This has not been done which clearly reflects that the discharge was voluntarily sought for by the petitioner.

5. We have also seen the original application filed by the petitioner. This is written in Hindi and in this, the petitioner has prayed that because his parents are very old and there is nobody to look after them, he may be permitted to be discharged from service. There is no mention of the death of his son in this application for discharge and the only reason given is that the parents of the petitioner are very old and, therefore, he may be permitted to go home to look after the parents.

6. We have also in the record seen a note of the Commandant of the battalion in which the petitioner was serving. The Commandant has written that he called the petitioner and

counselled him that no purpose would be served by his seeking discharge. In the note which is countersigned by the petitioner, it is mentioned that the petitioner was advised that if he goes home on discharge, his problems would increase instead of decreasing. He was also told that after going home, he would not be able to do anything in the future and there is very little likelihood of his obtaining any other job in the future. Despite being told so, the petitioner did not accept the advice of the Commandant and insisted that he be discharged from service.

7. Therefore, we have no doubt in our mind that the petitioner sought voluntary discharge from service. Having been voluntarily discharged from service, he would be squarely covered under rule 48-A which relates to voluntary retirement and in that eventuality, pension is payable only if a person has rendered more than 20 years of service. We must keep in mind the fact that the petitioner was in a uniformed service and could have been posted anywhere in the country. At that time, the petitioner, for reasons best known to him, decided that he did not want to serve in the CRPF any longer and wanted to be discharged from service. This discharge took place in the year 2002. Till 2009, the petitioner did not raise any demand of pension nor did he state that he had been forced or coerced into seeking discharge from service. Even in the notice sent by the counsel in the year 2009, there is no such allegation. It is only for the first time in the writ petition that an allegation has now been levelled that the petitioner was compelled

to seek discharge on the advice of some other persons working in the CRPF. None of these persons has been named and, therefore, we have no hesitation in coming to the conclusion that this allegation is absolutely false.

8. Therefore, we find no merit in the petition which is accordingly dismissed.

JUDGE

CHIEF JUSTICE