

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11164 of 2013

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Thakur Diwakar Singh Son of Paras Nath Singh, resident of village- Khorampur, P.S. Mohammadpur, District- Gopalganj (Bihar), at present posted in Kobra Battalion, Central Reserve Police Force, Barahi, District- Hazaribagh (Jharkhand) As Assistant Commandant.

.... Petitioner/s

Versus

1. The Union of India through the Director General of Police, Central Reserve Police Force, C.G.O. Complex, Lodhi Road, New Delhi- 110003
2. The Inspector General of Police, Central Reserve Police Force, Bihar, Patna
3. The Deputy Inspector General of Police, Central Reserve Police Force, Bihar, Patna
4. The Commandant, 3 Signal Battalion, Central Reserve Police Force, Salt Lake, Kolkata- 700091
5. The Commanding Officer D/3 Signal, Central Reserve Police Force, Section- V, Salt Lake, Kolkata- 700091

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Raj Narayan Mishra and Manoj Kumar, Advs.
For the Respondent/s : Mr. Sanjay Kumar, A.S.G.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-09-2016

Heard learned counsel for the petitioner and learned counsel for the Union of India.

The question, in the present case, has been raised by the petitioner to grant the benefit of counting the earlier period of service for the purposes of computation in his pensionary benefit. In essence, the relief has been sought that the respondent-authority has wrongly refused to grant the technical resignation, thereby the petitioner has been deprived of the benefit of past service.

There are some undisputed facts with respect to the



present petitioner, he was inducted in the Central Reserve Police Force in the year 2003 as Radio Operator, appeared in the examination conducted by U.P.S.C. for improving his status through direct recruits. While posted at Salt Lake, Kolkata in the Unit of 3 Signal Battalion, Central Reserve Police Force, he filed an application for 'No Objection Certificate' (NOC) to enable him to appear in the examination of U.P.S.C., but the competent authority refused to grant him the NOC on the ground, at least he was to serve the Force for five years after military and technical training is governed by the Central Reserve Police Force, Act and Rules, hence, no 'NOC' certificate for the said purpose could be issued without satisfying the condition, but it appears that the petitioner appeared in U.P.S.C. examination, on the ground that within 30 days, a written communication was not received debarring the petitioner to appear in the said examination. The petitioner was selected as Assistant Commandant of Central Reserve Police Force, he filed an application for the technical resignation, which was refused by the competent authority, vide Office Order No. D.V. 1/06-E-V, dated 18.12.2006, on the ground that he appeared in the examination without obtaining NOC so in terms of rule 17 (A) of the Central Reserve Police Force Rules, 1955, he cannot be granted the technical resignation and directed to deposit a sum of Rs. 57,114/- which was incurred on account of his training or three

months' salary whichever is higher side and in pursuance of direction, the petitioner has deposited the cost of his training and joined the post of Assistant Commandant in the Central Reserve Police Force.

The present petitioner has raised the grievance that he has discharged the service of Central Reserve Police Force earlier that should be counted in his pensionary benefit, which has been resisted by the Union of India on the ground that he was not granted the technical resignation, in such view of the matter, his past service cannot be recognised under the C.C.S. (Pension) Rule. He further submits that the petitioner is a fresh appointee, already, the Government of India has introduced the 'New Pension Scheme', which is based on contributory contribution, his past service will hardly give him any benefit, in such view of the matter, there is no need to grant benefit of his past service.

Be that as it may, the question has been raised about counting the past service.

Today a supplementary affidavit has been filed by the petitioner annexing the chart (Annexure-8) showing that out of 21 persons, 20 persons have been given the benefit of past services as well as the benefit under the 'Old Pension Scheme', but only the petitioner has been segregated and deprived of the past services as well as benefit of 'Old Pension Scheme', it appears that the petitioner

had served the Central Reserve Police Force and again joined the Central Reserve Police Force but in a higher position. First, he was refused for NOC on technical ground and also the technical resignation was refused, that too, on technical ground. If the benefit has been conferred to the other persons selectively he cannot be denied, shows arbitrary action on the part of the respondent-authority.

In such view of the matter, this Court remands the matter to the respondent-authority to consider the case of the petitioner, first for grant of the NOC as well as for grant of technical resignation side by side.

For the convenience, the petitioner is directed to file a representation along with a copy of this order before the competent authority, who will consider the case of the petitioner and take decision within a period of three months from the date of filing of the representation.

With the above observation/direction, this petition is disposed of.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.09.2016
Transmission Date	