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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition No.4260 of 2005

Manbodhi Ram Bhaina, S/o Shri Janak Ram Bhaina, aged about 40 years, 56 APO, Central Reserve Police Force (CRPF), 131 Battalion, Gund, District Shrinagar, Jammu & Kashmir.
Permanent Resident of Village Taga, District Janjgir-Champa, Chhattisgarh

---Petitioner

versus

- 1.** Central Reserve Police Force, through Director General, C.G.O. Complex, Lodhi Road, New Delhi
- 2.** Inspector General, Central Reserve Police Force, R.K. Puram, New Delhi
- 3.** Deputy Inspector General, Central Reserved Police Force, Center-I, Ajmer (Rajasthan)
- 4.** Commandant, 131 Battalion, Central Reserve Police Force, Shrinagar, District Shrinagar, Jammu & Kashmir

---- Respondents

For Petitioner	:	Shri Malay Shrivastava, Advocate
For Respondents	:	Shri N.K. Vyas, Assistant Solicitor General

Hon'ble Shri Navin Sinha, Chief Justice

Order on Board

10/5/2016

- 1.** Heard Learned Counsel for the Petitioner and the Respondents.
- 2.** Learned Counsel for the Petitioner submits that after fulfilling the qualifying period of service under Rule 43(d)(i) of the Central Reserve Police Force Rules, 1955 (hereinafter called 'the Rules'), the Petitioner applied for voluntary retirement. Despite eligibility for voluntary retirement, the Respondents arbitrarily passed no final orders and on the contrary, initiated departmental proceedings for unauthorised absence leading to order for termination on 23.8.2005. No proper notice of departmental proceedings was served on the Petitioner. The termination order has been challenged by filing an amendment application. The appeal preferred by the Petitioner has also been dismissed.
- 3.** Rule 43(d)(i) of the Rules does not vest an absolute right that if the incumbent fulfills the period of qualifying service and submits an application for voluntary retirement, it will stand accepted after expiry of three months.

The rule itself contains a caveat unless exigency of service requires otherwise. Keeping in mind that the Force is a uniform disciplined service, the Respondents proceeded departmentally against the Petitioner for unauthorised absence. The order of removal itself states that twice notices were sent to him by registered post at the last given address furnished by the employee. It is not the case of the Petitioner that he had intimated any change of address to the Respondents. The Court is therefore unable to hold that the Respondents either committed any illegality by not treating him as deemed to have been relieved from service and neither was the enquiry conducted *ex parte* illegally. The appeal preferred has also been rejected. The Court finds no merit in the writ application.

4. The writ application is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE