

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 22643 of 2016

Order:

The petitioner was appointed as Constable on 25.03.1996 in the Central Industrial Security Force and after completion of training he was posted in X Reserve Battalion, Ghaziabad, Uttar Pradesh. He was transferred to NTPC, Ramagundam. Thereafter, he was transferred to Cochin, Kerala. He passed the required departmental tests in the year 2007 while he was working in Kerala State. Subsequently, he was transferred to CISF Unit at NTPC SIPAT, Chattisgarh State on 16.04.2015 and he joined there. He broke the journey on 13.04.2015 and on the advice of the Psychiatrist he took treatment from 13.04.2015 to 20.06.2015 and applied for sick leave. The said sick leave was not sanctioned by the authorities. The District Hospital of Telangana Vaidya Vidhana Parishath, at Karimnagar, also advised the petitioner to take rest for six weeks. He was admitted in Government Mental Hospital, Erragadda, Hyderabad, for bi-polar-mood disorder disease as the Hospital in Chattisgarh was not having facility for treatment of Psychiatric diseases. While he was taking treatment, he was issued an order of suspension on 06.05.2015 and it was followed by a charge sheet dated 08.05.2015. Enquiry was conducted from 21.08.2015 to 14.10.2015 without following due procedure. Though he wanted to cross-examine the witnesses and submitted his defence, the same were not taken into account and an order of compulsory retirement was passed on 07.11.2015. Challenging which, the present Writ Petition was filed.

2. A counter affidavit is filed by the respondents raising a preliminary objection stating that the petitioner while posted at CISF Unit NTPC Sipat assaulted the Inspector and manhandled him while he was on sentry duty at a gate. He also misbehaved with the Unit Commander on 06.05.2015. After undergoing the process of enquiry,

he was awarded the punishment of compulsory retirement from service with full pensionary benefits vide order dated 07.11.2015. The petitioner approached this Court instead of availing the statutory remedy provided in Section 9 of the Central Industrial Security Force Act, 1968 (for short 'the CISF Act') by submitting appeal/revision petition to the Appellate/Revisional Authority i.e., DIG/SZ Headquarters, Chennai, against the orders of the disciplinary authority.

3. In view of the said remedy objection raised by the respondents, this Court heard the petitioner-in-person and also the Assistant Solicitor General for the respondents.

4. In the presence of an appellate remedy, any observations by this Court on the merits of the case would prejudice the case of the petitioner. The petitioner was, accordingly, advised to file a statutory appeal as provided under the CISF Act and the petitioner agreed for the same, but his only apprehension is that the impugned order was passed at the behest of the appellate authority and he may not get justice. But, this apprehension has no basis. It is hoped that the appellate authority would consider the appeal to be filed by the petitioner impartially in an objective manner and pass appropriate orders in the appeal after hearing the petitioner.

5. In the circumstances, this Writ Petition is disposed of giving liberty to the petitioner to file a statutory appeal within a period of fifteen (15) days from the date of receipt of a copy of this order and the appellate authority, the Deputy Inspector General, CISF South Zone Headquarters, Chennai, shall consider the same in accordance with law and dispose of the same after hearing the petitioner-in-person within a period of three (3) months thereafter. There shall be no order as to costs.

6. As a sequel thereto, the miscellaneous applications, if any, pending in this Writ Petition shall stand closed.

A.
Date: 10.08.2016
Nsr

RAMALINGESWARA RAO, J