

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 22748 of 2009

ORDER:

Proceedings dated 30.06.2003 passed by the Additional DIGP Group Centre, CRPF, Ranga Reddy, whereunder the petitioner was removed from service, is under challenge in this Writ Petition mainly on the ground of violation of Clause 2 of Article 311 of our Constitution.

The brief facts which led to filing of this Writ Petition are as follows:

The petitioner was appointed as a Cook by the 2nd respondent on 29.11.2002 and since then, he worked as such with the respondents till 14.01.2003. While so, due to his precarious health condition, the petitioner could not attend the duty. On 09.06.2003, when the petitioner requested the respondents to take him to duty, he was informed of the pendency of the inquiry proceedings initiated against him. Surprisingly, through proceedings dated 30.06.2003, the petitioner was removed from service. The said proceedings was challenged in Appeal before the 1st respondent Deputy Inspector General, CRPF, Ranga Reddy, but the Appeal was also dismissed by order dated 29.10.2008.

On behalf of the respondents, the 1st respondent Deputy Inspector General has filed a counter-affidavit. It has been stated that the petitioner was appointed as a Cook with effect from 27.11.2002 and after completion of basic training, he was attached to V Battalion, CRPF, but on 15.01.2003, morning he was found absconding from the CRPF camp without leave/prior permission from the competent authority. Therefore, a First Information Report was lodged with Alwal Police Station on 16.01.2003 and a WOA was also issued to the Superintendent of Police, Ranga Reddy District on 25.01.2003 for his

apprehension. A COI was ordered on 13.03.2003, as a result, he was declared as a DESERTER FROM FORCE with effect from the After Noon of 15.01.2003 under the provisions contained in Rule 31(c) of CRPF Rules, 1955. An enquiry was ordered against him and a memorandum of charge along with its Annexure-I to IV has been sent to the petitioner vide letter dated 25.03.2003. During the course of inquiry also, the Enquiry Officer through letter dated 12.04.2003 offered an opportunity to the petitioner to defend his case, but he neither turned up nor responded to the communications. Accordingly, the inquiry was conducted *ex parte* and the inquiry report was forwarded to the residential address of the petitioner through letter dated 12.06.2003. Meantime, an application dated 09.06.2003 was received from the petitioner stating that he could not report to duty due to illness and now he is fit to resume to duty. Vide letter dated 14.06.2003, the GC, CRPF directed the petitioner either to report to duty or to submit a representation within 15 days. Still, there was no response from the petitioner. Having no alternative, the order dated 30.06.2003 imposing the penalty of dismissal from service has been served on the petitioner. Against the said order, the petitioner filed an Appeal on 29.09.2007, after a long lapse of more than four years. The said Appeal was rejected as being time barred and devoid of merit vide order dated 29.10.2008.

Learned counsel for the petitioner Ms. S. Nanda submits that the case on hand sets an example for violation of the principles of natural justice by the respondents. It is the specific contention of the learned counsel for the petitioner that the impugned order recorded that the notice sent on 14.06.2003 was deemed to have been received by the petitioner, but, as a matter of fact, there is no material on record to show that the petitioner received the said notice dated 14.06.2003. According to the learned counsel, the appellate authority has not applied its mind to the case on hand and dismissed the Appeal simply

on the ground that it was presented after lapse of four years, though there is no time limit prescribed in the Regulations in the matter of preferring an Appeal. In these circumstances, the learned counsel prays this Court to remand the matter for conducting inquiry afresh by giving an opportunity of hearing to the petitioner.

Sri B. Narayana Reddy, learned Assistant Solicitor General submits that the case of the petitioner does not warrant any indulgence of this Court, inasmuch he falls under the category 'deserter from force'. He further submits that the penalty of dismissal from service imposed against the petitioner was also affirmed in the Appeal preferred by him, hence, the Writ Petition may straight away be dismissed.

Having considered the respective submissions and having perused the material available on record, it is seen that the petitioner deserted the service within three months of his joining. Though the petitioner pleads in the Writ Petition that his absence was due to sudden ill-health, during the course of inquiry or before the appellate authority, neither he stated the ailment with which he had suffered nor placed the material in support thereof. It is also to be noted that the petitioner is not diligent in conducting the matter, which is evident from the fact that he had preferred the Appeal nearly after four years of his dismissal from service.

In those circumstances, it cannot be said that the findings recorded by the preliminary authority as well as the appellate authority are perverse, hence, they cannot be interfered with, in exercise of certiorari jurisdiction by this Court.

It is not an out of place to note that the petitioner had an opportunity to serve a disciplined Police Force like CRPF, where obedience and discipline are the primary requirements. This Court being the constitutional authority cannot at all appreciate violation of

those primary requirements.

The Writ Petition is therefore, dismissed. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

CHALLA KODANDA RAM, J.

28th July 2016

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