

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION No.17733 of 2016

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ORDER:

The petitioner was appointed in Central Reserve Police Force (CRPF) on 15.06.1985 as Constable and had put in more than 30 years of service. He along with 11 others was charge sheeted for the alleged production of fake transfer order, dated 22.07.2004. The said issue culminated in imposing a punishment of removal from service. When the same was challenged in W.P.No.18036 of 2010, this Court allowed the same by order dated 30.06.2010 setting aside the order passed by the 4th respondent, which was upheld by the 2nd respondent in the appeal. The case was remanded with a direction that the matter shall be examined independently at the level of the 1st respondent and if he feels that the issue requires further examination, he shall entrust the matter to any officer of the appropriate rank, other than the 4th respondent. The 1st respondent was given liberty to take appropriate proceedings not only against the petitioner but also against several officers who acted upon the order. The officers against whom the enquiry was proposed, filed W.A.No.1375 of 2013 and this Court granted stay of enquiry against the officers who acted upon the order, dated 22.07.2004. There is no stay with regard to enquiry, if any, proposed against the Constables. The petitioner submitted a letter on 01.10.2014 seeking voluntary retirement from service. However, the 3rd respondent passed the impugned order on 13.08.2015 stating that in view stay granted by this Court, they are not in a position to proceed against the petitioner and hence, the application for voluntary retirement cannot be accepted by the Commanded 58 BN, CRPF. It was also concluded that in view of pendency of vigilance case, his voluntary notice cannot be accepted.

2. It is clear from the order, dated 11.02.2011 passed in

W.P.No.18036 of 2010 that this Court gave liberty to the 1st respondent-Director General of Police CRPF, New Delhi, to take a decision whether to proceed with the enquiry or not against the petitioner and others. When the enquiry was sought to be proceeded against the officers, they preferred

W.A No.1375 of 2013 and obtained stay. But, the said order of stay passed in W.A.No.1375 of 2013, dated 20.09.2013 does not stand in the way of the 1st respondent to proceed against the petitioner and others who are other than the officers against whom the order of stay is operating. The petitioner applied for voluntary retirement and the same was rejected on the sole ground that stay granted in the writ appeal is operating. This is not a proper interpretation of stay granted by this court in the writ appeal preferred by the officers.

3. In view of the same, the impugned order of the 3rd respondent 13.08.2015 is set aside and the matter is remanded to him to pass appropriate orders on the application of the petitioner, dated 01.10.2014 for voluntary retirement. If the 3rd respondent decides to proceed against the petitioner in respect of incident that took place on 22.07.2004, it is open to him to take appropriate proceedings despite pendency of W.A. No.1375 of 2013. Since the petitioner has applied for voluntary retirement, it is in the fitness of things to complete the enquiry as expeditiously as possible, but not later than three (3) months from the date of receipt of a copy of this order. Pending the said enquiry, the 3rd respondent is directed to take necessary action on the letter submitted by the petitioner on 01.10.2014.

4. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A.RAMALINGESWARA RAO, J

JUNE 21, 2016

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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Date: 21.02.2016

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