

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 16931 of 2015

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Amarjeet Kumar Son of Late Ram Sevak Yadav Resident of village - Ganjas, P.O. Sohiapur, P.S. Mufassil Gaya at District - Gaya, Pin No 823003 (Bihar).

.... Petitioner/s

Versus

1. Union of India through the Secretary, Department of Home Affairs, New Delhi.
2. The Inspector General of Police, West Bengal Sector, C.R.P.F., H.C. Block Section - III, Salt Lake, Kolkata - 800006.
3. The Deputy General of Police, C.R.P.F. Group Centre, C.R.P.F. Silliguri, at West Bengal.
4. The Commandant, G.C., C.R.P.F. Silliguri at West Bengal.

.... Respondent/s

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For the Petitioner/s	:	Mr Devendra Kumar Sinha, Sr Advocate with M/s Ajay Kumar Sinha & Abhinav Raj, Advocates
For the Respondent/s	:	Mr S D Sanjay, ASG Ms Punam Kumari Sinha, CGC

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 23-04-2018

Heard learned Senior Counsel for the petitioner as also
the learned Additional Solicitor General for the Union of India.

2 The writ petition was filed for setting aside the order dated 24.07.2015 whereby the Inspector General of Police has rejected the appeal filed by the petitioner as also the order dated 13.01.2015 that is the notice of termination of service issued upon the petitioner. Under sub-rule (1) of Rule 5 of Central Civil Services (Temporary Service) Rules 1965 (for brevity *CCS (Temporary Service) Rules*), the services of the petitioner as Constable have been terminated. The said termination of the petitioner has been done due



to his unauthorized absence from 16.12.2014 till the issuance of order of termination. Such long absence of the petitioner, immediately after his enlistment in the Force on 11.11.2014, has been found to be a grave misconduct on the part of the petitioner rendering him unbecoming of a Member of disciplined Force. However, keeping in view the temporary nature of service, the notice of termination has been issued simpliciter without attaching any stigma.

3 It is submitted by the learned Senior Counsel appearing on behalf of the petitioner that the punishment is grossly disproportionate to the allegations as petitioner has valid reasons for his absence.

4 This Court finds from the appeal filed by the petitioner before the Inspector General of Police that the petitioner has in fact admitted his absence and has stated that since it is his first mistake, the same should be pardoned.

5 It is further submitted by the learned Senior Counsel appearing for the petitioner that the petitioner may be given an opportunity to approach the higher authority by filing his revision under Rule 29 of the Central Reserve Police Force Rules as such Revision is provided after disposal of the appeal.

6 Learned Additional Solicitor General appearing on behalf of Union of India submitted that since the notice of termination of petitioner was issued under sub-rule (1) of Rule 5 of the CCS (Temporary Service) Rules, the petitioner cannot be permitted to



invoke Rule 29 of the CRPF Rules as he had not become permanent member of the Force. It is submitted that since action has been taken under sub-rule (1) of Rule 5 of CCS (Temporary Service) Rules, petitioner has been afforded the opportunity under Rule 5 (2) (a). He submits that it is this opportunity under Rule 5 (2) (a) of CCS (Temporary Service) Rules which has losely been referred to as Appeal by the authorities. By making such submission, it is his contention that Revision under CRPF Rules is not maintainable as action has not been taken under CRPF Rules.

7 Considering the aforesaid submissions, this Court finds that the absence being admitted, the petitioner’s case for toning down the punishment could have been considered by the authorities provided that any further remedy was available to him. Since the last opportunity under CCS (Temporary Service) Rules that is Rule 5 (2) (a) has been afforded to the petitioner, no further order can be passed directing the respondents to consider his case as the final order has been passed under Rule 5 (2) (a) of the CCS (Temporary Service) Rules.

8 The writ petition is, therefore, dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

