

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4085 of 2011

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1. Rakesh Kumar S/O Sri Indu Ram R/O Vill.- Narsinghpur, P.O.- Sonsa,
P.S.- Rahui, Distt.- Nalanda Petitioner/s

Versus

1. The Union Of India Through The Secretary Ministry Of Home Affairs,
Government Of India, New Delhi
2. The Secretary Ministry Of Home Affairs, Government Of India, New
Delhi
3. The Director General, CRPF, Ministry Of Home Affairs CGO Complex,
Lodhi Road, New Delhi-3
4. The DIGP (Cr & Vig), Office Of Directorate General CRPF, Ministry Of
Home Affairs, CGO Complex, Lodhi Road, New Delhi-3
5. The Inspector General of Police, Bihar Sector, CRPF, Patna-25
6. The Deputy Inspector General Of Police Group Centre, CRPF,
Mokamaghat, Patna (Bihar)
7. The Commandant, 47 Bn., Group Centre, CRPF, Mokamaghat, Distt.-
Patna
8. The Deputy Commandant, 47 Bn, Group Centre, CRPF, Mokamaghat,
Distt.- Patna Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shanti Pratap, Adv.

For UOI Mr. Anjani Kr. Sharan, Asst. S.G.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN
PRASAD
ORAL ORDER

5 05-01-2018 Heard learned counsel for the petitioner as well as

learned Assistant Solicitor General of India on behalf of the Union

of India.

Petitioner is aggrieved by the office order dated
05.05.2010 passed by the Commandant, 47 Battalion CRPF,
Mokamaghat by which the service of the petitioner from the post
of Constable (General Duty) in CRPF has been terminated. An
appeal preferred by the petitioner against the order of termination,
before the Inspector General of Police,



Bihar Sector, CRPF has also been rejected vide order dated 27.09.2010 and his further request to entertain a Revision against the appellate order has been refused by the DIGP (C.R. & V.I.G.) office of the Directorate General, CRPF saying that there is no provision for Revision under the Central Civil Services (Temporary Service) Rules 1965 (In short 'CCS (TS) Rules 1965'). Thus, the petitioner has also challenged those orders which are impugned in the writ application.

The facts emerging out from the pleadings exchanged by the parties would show that the petitioner was enlisted in CRPF against overall vacancies of CRPF with effect from 26.03.2010. It is not in dispute that only after four days of his reporting, he deserted from G.C. Mokamaghat on 30.03.2010 and an FIR to this effect was also lodged in the police station at Mokamaghat on 03.04.2010. A letter dated 12.04.2010 was also sent to the petitioner at his home address with a direction to report at G.C. Mokamaghat, failing which stern disciplinary action will be taken but he did not report.

It further transpires from the record that the petitioner reported at G.C. CRPF Mokamaghat on 22.04.2010 and on his own, he has written resignation vide application dated 23.4.2010 on the ground of illness of his mother and even before it could



have been processed he deserted on 27.04.2010 at 9.00 A.M. without any information/approval of the competent authority. Learned counsel for the petitioner however, disputes this aspect of the matter and submits that the letter of resignation was obtained under coercion and it was not a voluntary act of the petitioner. Be that as it may the fact further reveals that the petitioner once again, after his initial desertion, had left the office on 27.04.2010 at 9.00 hours without obtaining prior permission of the competent authority and without giving any intimation which according to the respondents speaks about the poor discipline of the petitioner.

Learned counsel for the petitioner submits that even though, the petitioner was a probationer, his services could not have been terminated without giving him an opportunity to show cause.

On the other hand, learned Assistant Solicitor General of India representing the Union of India submits that the service of the petitioner had been terminated under the provision contained in Sub-rule (1) of Rule-5 of C.C.S. (Temporary Service) Rules, 1965 by giving him pay for one month in lieu of one month's notice by the disciplinary authority vide CRPF office order dated 05.05.2010. A copy of the said order has been brought on record as Annexure-'G' to the counter affidavit. Learned



counsel further submits that after issuance of termination order, petitioner vide his application dated NIL (received in the office of the respondent on 23.06.2010) had requested to return his original certificates and permit him to join the duty, whereupon the petitioner was informed vide office letter dated 05.07.2010 sent by registered post that since his service has already been terminated vide office order dated 05.05.2010, he can not be retained in service. The appeal preferred by the petitioner was found devoid of merit and a well reasoned order has been passed by the appellate authority, which need not interfere.

In the facts and circumstances of the case, I find no good ground to interfere with the order impugned in the writ application. The petitioner was on probation and only after four days of his reporting, he absconded from the campus unauthorizedly and, thereafter, he repeated the same conduct, which shows the poor discipline on the part of the petitioner and in that circumstance, if the petitioner being a probationer, his service has been dispensed with in accordance with the Service Rules, it cannot be termed illegal. No illegality or infirmity has been found with the impugned order so as to warrant any interference in exercise of the extraordinary jurisdiction of this court under Article 226 of the Constitution of India.



The writ application has no merit and it is,
accordingly, dismissed.

(Rajeev Ranjan Prasad, J)

Arvind/ sushma

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