



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 29.8.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.1835 of 2018
and
C.M.P.No.14760 of 2018

1. The Deputy Inspector General of Police
CRPF Chennai Range, Avadi,
Chennai.
2. The Commandant,
19 Battalion, CRPF,
RSP Trainees Hostel,
Sector-5, Rourkela, Orissa.
3. The Union of India,
rep. by the Inspector General,
CRPF, Southern Sector,
Road No.10C, Jubilee Hills,
Near MLA/MPs Colony,
Hyderabad 33.

Appellants/Respondents

Versus

N.Ramesh

Respondent/Petitioner

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 28.8.2017 passed in W.P.No.5289 of 2011 on the file of this court Writ petition filed Under Article 226 of the Constitution of India, praying to issuance of Writ of Certiorarified Mandamus to call for the records in pursuant to the Impugned Order passed by the 2nd Respondent in proceeding No:P.VIII-4/2010-EC-11-19 dated 30.10.10 and the Appellate order passed by the 1st Respondent in office order No:R.XIII-15/2010-ESTT.111 dated 03.05.11 and the order passed by the 3rd Respondent in proceeding No.R.XIII.11/12-ADM-7 dated 21.03.12 and Quash these orders and consequently direct the Respondents to reinstate the Petitioner in service with full backwages and other consequential service benefits.

For appellants : Mr.K.Gunasekar

For respondent : Ms.Swadhi Subramaniam



JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellants and Ms.Swadhi Subramaniam, learned counsel, who takes notice on behalf of the respondent.

2. The writ appeal has been filed by the CRPF challenging the order passed by the learned Single Judge in allowing the writ petition and thereby directing the appellants to reinstate the writ petitioner/respondent herein, with continuity of service, but, without backwages for the period from the date of removal from service till the date of reinstatement.

3. It appears that the respondent herein, a Constable in CRPF was proceeded departmentally for having withdrawn excess amount viz., 9700/- using the ATM card of a friend which was entrusted by the said friend on the request made by the respondent for a sum of Rs.1000/- as loan and after enquiry, the respondent was removed from service which was challenged before the learned Single Judge.

4. The explanation said to have been offered by the respondent herein is that he was under a compelling circumstances to withdrawn such amount which he had intended to inform his friend, but, he could not do so as he had to leave the Station in view of the police complaint given by his wife on the estrangement between him and his wife at the relevant point of time. It further appears that subsequently, on some pacification arrangement the respondent and his wife had patched up and they are living together and he had also repaid the amount so withdrawn.

5. The learned Single Judge, of course, having agreed with the explanation offered by the respondent for having withdrawn the excess amount, found that the punishment of removal from service is harsh and disproportionate to the gravity of the offence alleged the respondent herein and otherwise also holding that the conduct of the respondent herein cannot be fully condoned, since the faith imposed by his friend had been misused by the respondent herein under whatever circumstances that might have forced him to conduct himself in the manner, has ordered for reinstatement with continuity of service while holding that the non-payment of wages from the date of removal from service till the date of reinstatement would be the sufficient punishment.

6. It appears that on 30.10.2010 the respondent herein was removed from service and so far, he has not been reinstated. It is for more than eight years, the respondent herein is without employment, for a money transaction that had occurred between the respondent and his friend, which is found to be purely private in nature. Therefore, considering the totality of the



circumstances and the explanation offered by the respondent herein which constrained him to overdraw the amount, we do not find any illegality or infirmity in the well reasoned order passed by the learned Single Judge and the reduced punishment of non-payment of wages from the date of removal from service till the date of reinstatement as ordered by the learned Single Judge is sufficient. We are not inclined to differ from the view taken by the learned Single Judge.

7. In the result, the writ appeal is dismissed. The appellants are directed to reinstate the respondent herein within one month from the date of receipt of a copy of this judgment. No costs. The connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Deputy Inspector General of Police
CRPF Chennai Range, Avadi,
Chennai.
2. The Commandant,
19 Battalion, CRPF,
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3. The Inspector General,
Union of India,
CRPF, Southern Sector,
Road No.10C, Jubilee Hills,
Near MLA/MPs Colony,
Hyderabad 33.

+lcc to Mr.K.Gunasekar, Advocate, S.R.No.59092.

+lcc to Mr.R.Prem Narayan, Advocate, S.R.No.59226.

W.A.No.1835 of 2018

rrs 27/09/2018.