

IN THE HIGH COURT OF JUDICATURE AT MADRAS
ORDER RESERVED ON : 06.07.2018
ORDER PRONOUNCED ON : 11.07.2018

CORAM:
THE HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

W.P.No.4007 of 2009

S. Ganesan

... Petitioner

Vs.

1.The Director General,
C.R.P.F., CGO Complex,
Lodhi Road, New Delhi.

2.The Inspector General of Police,
C.R.P.F., Southern Sector,
Hyderabad - 500 005.

3.The Deputy Inspector General of Police,
C.R.P.F., Avadi, Chennai - 65.

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, to direct the respondents to pass orders on the representation dated 15.12.2008, by ordering Departmental Enquiry for the wrong statement submitted by the concerned officials with respect to the posting particulars and disburse the Risk Fund amount Rs.75,000/- as per the representation submitted on 22.02.2008, together with interest and damages Rs.2,00,000/- for mental agony.

For Petitioner : Mr.M.Md Ibrahim Ali

For Respondents: ***V.Balasubramanian**

SPC For R1 to R3

सत्यमेव जयते
O R D E R

This Writ Petition has been filed for the issuance of Writ of Mandamus directing the respondents to pass orders on representation dated 15.12.2008 by ordering Departmental Enquiry for wrong statement submitted by the officials concerned with respect to the posting particulars and disburse the Risk Fund amount of Rs.75,000/- as per the representation submitted by the petitioner on 22.02.2008.

2. The Writ Petitioner joined as Constable in the C.R.P.F. On 01.06.1977. He was promoted to the rank of Assistant Commandant in the year 2002. The petitioner submitted an application on 21.06.2007 requesting for voluntary retirement.

The request for voluntary retirement was accepted and the petitioner was voluntarily retired with effect from 01.10.2007.

3. It is the contention of the petitioner that the amount due to him on account of risk fund was not disbursed. It is stated that a detailed representation was submitted to the Deputy Inspector General of Police, C.R.P.F., Avadi, Chennai, for payment of Rs.75,000/- towards Risk Fund. It is submitted by the petitioner that the said amount of Rs.75,000/- towards Risk Fund has not been given to him.

4. The petitioner filed W.P.No.22970 of 2008 before this Court for disbursement of risk fund. This Court by its order dated 22.09.2008 directed the respondents to consider the representation of the petitioner dated 22.02.2008 and pass appropriate orders within six weeks from the date of receipt of the said order copy. The representation was considered and has been disposed of by the Deputy Inspector General of Police Group Centres C.R.P.F., Avadi, Chennai on 15.11.2008. The relevant portion of the order read as under:-

"4.Shri. S.Ganesan, Ex.Assistant Commandanat filed a writ petition No.22970/2008 in the High Court of Judicature at Chennai in connection with non-disbursement of his Risk Fund final payment amounting to Rs.75,000/- and damage Rs.2,00,000/- for mental agony. In this connection following facts are brought out:-

i) On 22/9/2008, Shri. S.Ganesan, Ex.Assistant Commandanat filed a writ petition No.22970/2008 in the High Court of Judicature at Chennai in connection with non-disbursement of his Risk Fund amounting to Rs.75,000/- and damage Rs.2,00,000/- for mental agony. The Hon'ble High Court dismissed the petition on the same day with the direction to settle the case within a period of six week from the date of receipt of a copy of court order. Immediately this office has checked all connected records and found that neither his Risk Fund Pass book available in this office nor the officer had submitted on his voluntary retirement. Further, Shri. S.Ganesan, Ex.Assistant Commandanat has completed more than 20 years of service in this Force and entitled for refund of total subscription + 50% bonus as laid down in the Fund Manual Chapter IV (Risk Fund) para 6(c). As such a sum of Rs.16,510.00/- on account of Risk Fund subscription deposited by Shri. S.Ganesan, Ex.Assistant Commandanat till

30.09.2007 and a sum of Rs.8,255.00/- on account of 50% bonus to the deposited amount with a total amount of Rs.24,765/ is entitled to the ex-officer and not Rs.75,000/- as claimed by him.

ii) In order to settle the case, this office has approached 142 Battalion from where the officer reported on transfer to this Group Centre with the request to forward his Risk Fund Pass book vide our message number M.V.1/2008/-09-GC-BGT dated 25.09.2008, 6/10/08. The Commandant, 142 Bn. was further approached and requested 60 Bn. to forward his Risk Fund Pass book as the same not found available in 142 Bn. as conveyed through his message No. RF 3/08-09-AC-2 dated 12.10.2008. The Commandant, 60 Bn. had further requested 25 Bn. for his Risk Fund Pass book vide 60 Battalion message No.RF 1/08-09-AC-II dated 15.10.2008. The 25 Bn. has approached RTC-II for his RF pass book vide 25 Bn. message No.RF 1/08-09-25-AC-II dated 18.10.2008. But all efforts taken by these previous units and this office has not achieved any fruitful result and his Risk Fund Pass book is still missing / not traceable.

iii) In the mean time this office has approached the DIG(Adm) Dte.Genl. With a request to accord approval for preparation of duplicate pass book vide our signal No.RF.1/2008-GC-BGT dated 18.10.2008. Our request has been considered by the Directorate and accorded approval for preparation of duplicate Risk Fund Pass book vide DIG (Welfare) Dte. Genl. Signal. No. RF-32/08-ADM-II/WEL dated 29.10.2008 with the direction to forward his RF final payment case by mentioning complete details. Immediately, this office has sent a set of blank application in prescribed format alongwith connected documents for submission of his Risk Fund final payment proposal to Shri. S.Ganesan, Ex.Assistant Commandanat with a request to complete the same and return to this office through SI/GD Muthu vide our letter No. RF. 1/2008-09-GC-BGT dated 24.10.2008. But the officer has not even accepted our above letter and same received with this office

undelivered. This fact has already been communicated to DIGP (Adm), Dte. Genl. with the information to all concerned vide our message / Selo No.RF. 1/2008-GC-AVD-BGT dated 23.10.2008. In order to avoid any complication at later stage, this office has submitted a comprehensive proposal alongwith duplicate pass book to DIGP(Adm) Dte. Genl. Vide our letter No. RF. 1/2008-09-GC-BGT dated 31.10.2008 with a request to pass his RF final payment. His Risk fund final payment will be disbursed immediately on receipt of the demand draft from the DIGP(Adm) Dte. Genl. CRPF, New Delhi.

iv) In response to our letter dated 24.10.2008, Shri. S.Ganesan, Ex.Assistant Commandanat has not submitted final payment documents and instead represented again on 3/11/2008 to disburse his Risk Fund final payment failing which he will approach the Court for remedy. Further, a set of blank application in the prescribed proforma and connected documents regarding drawal of his Risk Fund final payment again sent to Shri. S.Ganesan, Ex.Assistant Commandanat with the request to complete the same and return to this office for payment action vide our letter No. RF. 1/2008-09-GC-BGT dated 8/11/2008. But no response is received from Shri. S.Ganesan, Ex.Assistant Commandanat till date.

vi) The Court order dated 22.09.2008 was delivered by the court on 7/10/2008 and the same received in our office on 11/10/2008. As such the period of six weeks stipulated by the Hon'ble court is likely to be completed by 3rd week of November 2008. However, all possible efforts have already been taken to settle his Risk Fund final payment well within the limitation of time fixed by the Hon'ble High Court of Tamil Nadu at Chennai.

vii)As ascertained from our Directorate a sum of Rs.24,675.00/- on account of Risk Fund final payment in respect of Shri. S.Ganesan, Ex.Assistant Commandanat passed and expected to receive the demand draft to this office shortly for further disbursement to Shri. S.Ganesan,

Ex.Assistant Commandant."

5. Aggrieved by the order dated 15.11.2008, the instant Writ Petition has been filed.

6. The respondents have filed a counter stating as under:-

3) I submit that the petitioner was a Gazetted Officer while retiring from this Force. Being a Gazetted Officer his accounts including Risk Fund were maintained by Directorate General, GRPF, New Delhi. As such, it was his responsibility to submit all final payment documents immediately on his voluntary retirement which was not done so by the petitioner, which is the main cause for delay, occurred in this case. On 22/02/2008, the petitioner had submitted a representation regarding non receipt of his Central Government Group Insurance Scheme / Risk Fund final payment. As regards allegation made by the petitioner vide his application dated 22/02/2008 that the relevant documents regarding Risk Fund final payment, reportedly submitted by the Officer on 05/10/07 could not be traced out in respondent office is totally false and misleading the court as no such documents was found to have been received in the respondents office. The petitioner was given ample opportunities to complete his Risk Fund final payment documents by deputation representative from this Group Centre. Despite our best efforts the petitioner failed to co-operate with this Department and declined to sign the pension papers. The petitioner has deliberately avoided co-operating and putting the blame on the Department. The Department is always ready to disburse the final payment amount without any delay, provided the petitioner complies with the formalities and sign the final payment documents. As such no action for payment of his Risk Fund final payment could be taken by respondent office. However, a sum of Rs.33,490.00/- on account of final payment of his Central Government Group Insurance Scheme has been paid to the petitioner vide Demand Draft No. 0470-220649 dated 18/03/2008 and same was sent through registered letter No. C-5803 dated 20/03/2008. Under the provision contained in para 6(c) of Chapter-IV [CRPF Risk Fund] of Force Institution and Funds Manual, 1976, the personnel who are having membership upto 20 years and proceeding on Dismissal / Discharge / Retirement are entitled for 20% of Bonus [Refund of total subscription + 20% Bonus], personnel with 20-30

years of membership are entitled for 50% Bonus and personnel above 30 years of membership / all superannuation cases are entitled for 100% Bonus. As regards of payment of Risk Fund final payment, the petitioner has completed above 30 years of services, but not having 30 years of membership in the Risk Fund. The petitioner had subscribed in Risk Fund from 03/1983 and proceeded on Voluntary Retirement with effect from 01/10/2007[FN]. From the above, it is very clear that the petitioner was entitled for 50% of Bonus plus refund of total subscription. Shri Lakshman Roy, Inspector was proceeded on Superannuation. Hence, he was paid 100% Bonus plus refund of total subscription.

4) I submit that the petitioner has not subscribed 30 years above to the Risk Fund and he is not entitled for Refund of total Subscription + 100% Bonus, However, he was entitled for Refund of total subscription + 50% Bonus only and accordingly the entitled amount was paid to him.

5) I submit that on 22/09/2008, the petitioner had filed a W.P.No.22970/2008 in the High Court of Judicature at Chennai in connection with non-disbursement of his Risk Fund amounting to Rs.75,000/- and damages Rs.2,00,000/- for mental agony. The Hon'ble High Court disposed of the writ petition on the same day with the direction to the department to settle the case within a period of six weeks from the date of receipt of a copy of court order. Immediately, respondent office has checked all connected records and found that neither his Risk Fund Pass Book available in respondent office nor the officer had submitted his Risk Fund final payment documents to this office immediately on his Voluntary Retirement further. The petitioner has completed more than 20 years of membership and was eligible for Refund of Total subscription + 50% bonus as laid down in the Fund Manual Chapter IV (Risk Fund) para 6 (c). As such a sum of Rs.16,510.00/- on account of Risk Fund subscription made by the petitioner till 30/09/2007 and sum of Rs.8,255.00/- on account of 50% bonus to the total subscription amount with a total amount of Rs.24,765/- was entitled to the petitioner and not Rs.75,000/- as claimed by him."

7. Heard the learned counsel appearing for both sides.

8. Apart from stating that the petitioner is entitled to a sum of Rs.75,000/- towards Risk Fund, the petitioner has not

substantiated his claim. The averment in the counter that the petitioner has not completed 30 years of membership in the Risk Fund has not been controverted. The petitioner has completed only 20 years of membership and he is entitled refund of total subscription plus 50% bonus as laid down under Chapter - IV of Force Institution and Funds Manual, 1976. The petitioner has deposited a sum of Rs.16,510/- on account of Risk Fund till 30.09.2007 and adding 50% bonus of Rs.8,255/-, the petitioner is only entitled to total subscription of Rs.24,765/-. The claim of the petitioner that he has paid a sum of Rs.24,360/- is unsubstantiated and cannot be accepted. The calculation of the respondents is correct. The petitioner has been paid a sum of Rs.24,765/-, which is Risk Fund as final payment.

9. The Writ Petition is devoid of merits and stands dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS II)

Dated:20/07/2018

*Corrected as per
Letter dated 7.8.2018

Sd/-

Assistant Registrar(CS-II)

Dated:7/8/2018

//True copy//

Sub Assistant Registrar

asi/gsp
To

1.The Director General,
C.R.P.F., CGO Complex,
Lodhi Road, New Delhi.

2.The Inspector General of Police,
C.R.P.F., Southern Sector, Hyderabad - 500 005.

3.The Deputy Inspector General of Police,
C.R.P.F., Avadi, Chennai - 65.

+1cc to Mr.M.Md.Ibrahim Ali, Advocate SR.No.45280
+2cc to Mr.V.Balasubramanian, Senior Panel Counsel
(Government of India) SR.No.45003

W.P.No.4007 of 2009

SSV(CO)
GN(23/07/2018)
srg 9/8/2018