

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4734 of 2016

Ashok Kumar

... .. Petitioner/s

Versus

The Union Of India and Ors

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar

For the Respondent/s : Mr.S.D Sanjay Addl. Soc. Gen.

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 20-06-2019 Heard counsel for the petitioner and counsel for the respondents-State.

Writ petition has been filed challenging the order issued by the Group Commandant, Mokamaghat, Patna in exercise of power under rule 5(1) of Central Civil Service (Temporary Service) Rule, 1965.

Counsel for the petitioner submits that in compliance of direction issued to the petitioner by Group Center on 12.01.2015, petitioner had submitted his joining along with medical prescription on 19.01.2015. He submits that in the circumstance, there was no occasion for exercising power under rule 5(1) of Central Civil Service (Temporary Service) Rule, 1965 as such order impugned in the proceeding is unsustainable in the eye of law. He submits that the petitioner having complied with direction was entitled to be continued as temporary



member of the force pursuant to his selection and appointment order on 01.03.2014 whereby and whereunder he was appointed as constable (GD).

Learned Addl. Solicitor General appears on behalf of the respondents. Detailed counter affidavit has been filed. Undisputed facts are that subsequent upon order of appointment dated 01.03.2014 petitioner for the first time had reported for training in December, 2014. Record further reveals that prior thereto on 12.12.2014 petitioner had actually approached respondent-authority with request to discharge him from duty on account of personal family ground. Same is evident from communication dated 12.01.2015 (Annexure D to the counter affidavit). Petitioner was at that point of time produced before Officers and Principal, RTC, Srinagar for acceptance and discharge from service. The authorities made efforts and convinced him to continue in service and when they could not convince the petitioner, he was sent to group center along with three others to complete formality of discharge as per provision contained in training manual. While in transit, petitioner deserted the force from Jamu railway station without completing the formality of his discharge.

In the circumstance this court would conclude that the



authorities having regard to his conduct, have no other alternative but to exercise power under rule 5(1) of Central Civil Service (Temporary Service) Rule, 1965.

Authorities have exercised their power under the said rule by issuing a notice as per procedure required in the rule itself. Procedure adopted by the authorities is not disputed to be in violation of rule 5(1). The facts taken note of hereinabove are clearly suggestive of the fact that the petitioner by virtue of his conduct could not be accepted as a member of disciplined force like CRPF which has to discharge the duty to secure safety and security of the State. The authorities in the opinion of this court have rightly exercised their power and procedure under rule 5(1) of Central Civil Service (Temporary Service) Rule, 1965.

Writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

s.hassan/-

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