

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 1846 of 2017

Ghanshyam Khanwani S/o Jethumal Khanwani, Aged About 52 Years,
Post Home Guard (Sainik), R/o Behind Ice-Cream Factory, Ashok
Nagar, Gudhiyari, Police Station Gudhiyari, Post Ganj, Raipur, District
Raipur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Home Department,
Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh
2. Director General, Home Guard, Raipur, District Raipur, Chhattisgarh
3. Inspector General, Home Guard, Raipur, District Raipur, Chhattisgarh
4. Divisional Commandant, Home Guard, Collectorate Premises, Raipur,
District Raipur, Chhattisgarh
5. District Commandant, Home Guard, District Office, Raipur, Chhattisgarh

---- Respondents

For Petitioner : Mr. Rakesh Pandey with Shri Varunendra Mishra, Advocates
For State : Mr. Rahul Mishra, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

29/04/2019

1. The challenge in the present writ petition is to the action on the part of the respondents refusing to renominate the petitioner as a Nagar Sainik (Home Guard). The authorities vide their order Annexure P-2 dated 30.06.2016 and Annexure P-1 dated 01.11.2016 have refused for renomination of the petitioner as a Nagar Sainik.

2. Contention of the counsel for the petitioner is that the petitioner has been refused for renomination on baseless allegations without there being any proof in respect of the same. It is the further contention of the petitioner that even if there were certain allegations, the petitioner had never been taken into consideration before he was refused renomination as a Nagar Sainik. So far as the allegations which are reflected from impugned order Annexures P-2 and P-1 are concerned, the respondents themselves have conducted an enquiry and there is an enquiry report dated 21.08.2017 given by the Director, Fire and Emergency Services and SDRF Headquarter (CG) wherein the Director of the said services has given a report to the Director General, Nagar Sainik categorically holding that the charges levelled against the petitioner do not stand established and that the allegations are found to be baseless and without evidence. According to the counsel for the petitioner, in the light of this enquiry report dated 21.08.2017, the respondents ought to have reconsidered the case of the petitioner for renomination as a Nagar Sainik.
3. State counsel, opposing the petition, refers to the reply that the respondents have filed wherein they have categorically taken a stand that the service record of the petitioner was not up to the mark and that there were also serious allegations against the petitioner regarding his conduct. State counsel tried to refer to the order dated 30.06.2016 Annexure P-2 wherein certain allegations have been levelled against the petitioner stating those to be serious and therefore, the petitioner has been rightly not granted extension of his service as a Nagar Sainik by way of renomination.

4. Having heard the contentions put forth on either side and on perusal of the record what is reflected is that along with the return the respondents have enclosed a circular dated 13.03.1995 which lays down the parameters/guidelines on which the renomination of the personnel in Home Guards are carried on. One such guideline in the said circular is that the annual confidential report should reflect the personnel having good grading and entries made therein. There should also not be any charge of misconduct to have been committed in the course of his service. What is also relevant at this juncture is to take note of is the contents of Annexure P-2 & P-1, more particularly Annexure P-2 which gives certain reasons under which renomination of the petitioner has been refused. A plain reading of the same would reveal that the allegation which has been levelled against the petitioner was in respect of his behavior with one officer of FCI, Gudhiyari namely Shri Anil Poddar and other such misbehavior made to the senior officers of FCI. The further allegation is that of the petitioner collecting money from Nagar Sainiks for filing of a petition before the High Court seeking for relief of enhancement in their wages/remuneration.
5. So far as misbehavior with Shri Anil Poddar, the officer of FCI, Gudhiyari is concerned, there is no material produced by the State Govt. in their reply to the writ petition or by way of any other document even at the time of argument, with which the said allegation could be substantiated. So far as extortion of money from the Nagar Sainiks is concerned, the same stands falsified from the enquiry report brought by the petitioner on record vide Annexure P-8 whereby the Director of the Department himself on thorough enquiry has reached to the conclusion that there

was no material to substantiate the said charge levelled against the petitioner.

6. Given the aforesaid factual matrix of the case, this Court is of the firm view that the entire record or grading of below average given to the petitioner for the year 2015-16 is without any basis or at least there is no other additional material available on record by which it could be justified.
7. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that keeping in view the order of the Director dated 21.08.2017, the authorities may reconsider the case of the petitioner for renomination keeping in view the entire track record of the petitioner as is available from the service record of the petitioner including his previous ACRs (other than the ACR for the year 2015-16). Let this exercise be completed by the respondents within a period of 4 months from the date of receipt of copy of this order.
8. The writ petition accordingly stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge