

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6118 of 2018

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Dablu Kumar Son of Brij Nandan Prasad Resident of Village - Lemuabad,
Post Office - Lemuabad, Police Station - Pandarak, District - Patna.

... .. Petitioner/s

Versus

1. The Union Of India and Ors
2. The Director General, C.R.P.F. CGO Complex, Lodhi Road, New Delhi.
3. The Special D.G., CRPF, Central Zone, Headquarter, Kolkata, West Benganl.
4. The Inspector General, CRPF, Sheikhpura, Patna.
5. The Commandant, CRPF, Group Centre, Mokama Ghat, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anish Kumar
For the Respondent/s : Mrs. Kanak Verma, CGC

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

7 05-12-2020 Heard Mr. Yogesh Chandra Verma, the learned senior

counsel for the petitioner, duly assisted by Mr. Dhananjay

Kumar, the learned counsel, and Mrs. Kanak Verma, the learned

counsel for the Union of India.

The matter has been taken up through video
conferencing.

The petitioner has filed this writ petition for following
reliefs:-

*“(i) For issuance of appropriate writ, order or
direction for quashing the order passed in letter No. D-V-
1/2013-EC-6 dated 25.11.2017 issued under signature of
Commandant, GC, CRPF, Mokama Ghat, whereby and where
under services of the petitioner came to be terminated with
effect from 25.11.2017.*



(ii) For issuance of appropriate writ, order or direction for quashing the order passed by IGP, Bihar Sector, CRPF, Patna having letter No. R13-GCMO-(Dablu/Rahul)/2018 dated 09.01.2018 whereby termination order was upheld.

(iii) For issuance of an appropriate writ for reinstatement of the petitioner in the service of CRPF with all consequential benefits.”

In nutshell the facts is that the petitioner was appointed as CT/GD bearing No. 175190374 RT/GD at the Group Center, CRPF, Mokama Ghat on 21.03.2017 and was undergoing basic training at ATC, GC, CRPF, Mokama Ghat, Patna. During mid term retest held on 24.10.2017 Chest No. 19 of petitioner, Dablu Kumar, was being used by Rahul Kumar having Chest No. 34 during physical test and on such allegation service of the petitioner was terminated on 25.11.2017 vide letter No. D-V-1/2017-EC-6 under the signature of Commandant, Group Center, Mokama Ghat, Patna. The petitioner thereafter filed appeal before the appellate authority but the appellate authority also dismissed the appeal vide order as contained in letter No. R-13-GC-MO (Dablu/Rahul)/2018 dated 09.01.2018.

The learned senior counsel for the petitioner submits that retest has no significance in service. If a candidate failed in retest his training period is extended but there is no provision to terminate his service. Even the appointment letter does not



contain any such provision regarding termination of service in case of failure in retest. It is further submitted that no show cause notice was issued to the petitioner and without informing the petitioner about the finding of the enquiry officer and without giving any opportunity to the petitioner his service has been terminated. It is submitted that actions of the respondents are in violation of the law laid down by the Supreme Court in the case of Managing Director, ECIL v. B. Karunakar, 1993 Supp. 4 SCC 727. It is further submitted that under similar circumstance service of Rahul Kumar was also terminated during probation period but Rahul Kumar filed CWJC No. 206 of 2018 and this court vide order dated 02.08.2018 set aside the order of termination and the matter was remitted to the authority concerned to proceed further afresh in accordance with law.

As per contra, Mrs. Kanak Verma, the learned counsel for the Union of India, submits that against the order passed by this court in CWJC No. 206 of 2018 the Union of India has filed LPA No. 283 of 2019 and the same is still pending. The facts of the case are totally different from the facts of the present case. In the case of Rahul Kumar the petitioner was terminated from service on the ground of suppressing facts and order of termination was passed on the ground that petitioner failed to



show that certificates produced by him are correct and genuine but since no show cause was issued, the order of termination from service was set aside. In the present case the petitioner failed in test and retest was held on 24.10.2017 but the petitioner set up one Rahul Kumar who bore chest No. 19 of the petitioner and tried to clear the physical test of the petitioner. On such, enquiry was held and the petitioner was found using unfair means by setting up Rahul Kumar to appear on his behalf for getting through in the physical test and on such ground the service of the petitioner was terminated. The petitioner was appointed in Para Military Force, CRPF, in which physical fitness of a Constable is required to be maintained. If a person is not physically fit for appointment on the post of Constable in a Para Military Force like CRPF he is not fit to be retained in service, therefore, the order does not require any interference.

Having considered the submission of both sides, I find that petitioner was initially appointed on the post of Constable in CRPF, a Para Military Force, and was undergoing training but during the course of training he failed in physical test. Again physical retest was being held on 24.10.2017 but during the course of retest the petitioner set up his colleague Rahul Kumar who bore chest No. 19 of the petitioner. Rahul Kumar was being



impersonated as Dablu Kumar, the petitioner, and he tried to get through the physical test but he was caught and this fact itself reveals that the petitioner wanted to remain in service of a Para Military Force although he was not fit to remain as Constable in CRPF, a Para Military Force. A Constable of Para Military Force is required to maintain certain standards as prescribed in recruitment rules. During the course of physical test the petitioner failed and one chance was given to the petitioner to get through the physical test but the petitioner adopted unfair means by setting up another Constable to get him passed through the physical test but he was caught red handed and after holding enquiry the service of petitioner was terminated as he did not complete the training successfully. The case of petitioner is different from the case of Rahul Kumar (CWJC No. 206 of 2018).

Having considered the facts aforesaid, I find no reason to interfere with the impugned order. This writ petition is, accordingly, dismissed.

(Prabhat Kumar Jha, J)

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