

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1145 of 2020

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Bharti Devi Daughter of Sikandar Prasad, Wife of Dharmendra Prasad,
Resident of Village and Post- Chandchoura, P.S. Khatkachak, District- Gaya.

... .. Petitioner

Versus

1. The Union of India through the Ministry of Home Affairs, Govt. of India, New Delhi.
2. The Director General CRPF, Govt. of India, Ministry and Home Affairs.
3. The Inspector General of Police, West Bengal Sector, CRPF (HC)- Block Sector-3, Salt Lake, Kolkata.
4. The Commandant 232 (BM) Bataliyan, CRPF at GC-2-Campus, FOY Sagar Road Ajmer, Rajasthan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Nagendra Pd. Yadav
For the Respondent/s	:	Mr.S.D. Sanjay (Adsg)
For Union of India	:	Mr. Naresh Dikshit

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 19-02-2020 Heard learned Counsel for the petitioner and the learned Counsel for respondents.

The petitioner is aggrieved by order dated 13.10.2016 whereby the Commandant of the respondent Force in exercise of jurisdiction under sub rule (1) of Rule 5 of the Central Civil Services (Temporary Section) Rules, 1965 (hereinafter referred to as CCS(TS) Rules, has terminated services of the petitioner forthwith complying with the requirement under Rule 5(1) of the CCS(TS) Rules and one month pay and allowance for the notice period has been made available to the petitioner.

The petitioner thereafter had approached the Inspector General of the Force alleging that the order passed by the Commandant was not sustainable. The Inspector General by his order dated 24.03.2017 has approved the order passed by the Commandant and made the petitioner aware of the reasons for resorting to the



powers vested in the Commandant under Rule 5(1) of the CCS(TS) Rules, which reads as follows:-

5. Termination of temporary service.

(1) (a) The services of a temporary Government servant shall be liable to termination at any time by a notice in writing given either by the Government servant to the appointing authority or by the appointing authority to the Government servant;

(b) the period of such notice shall be one month.

Provided that the services of any such Government servant may be terminated forthwith and on such termination, the Government servant shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or as the case may be, for the period by which such notice falls short of one month.

NOTE:- The following procedure shall be adopted by the appointing authority while serving notice on such Government servant under clause (a).

(i) The notice shall be delivered or tendered to the Government servant in person.

(ii) Where personal service is not practicable, the notice shall be served on such Government servant by registered post, acknowledgement due at the address of the Government servant available with the appointing authority.

(iii) If the notice sent by registered post is returned unserved it shall be published in the Official Gazette and upon such publication, it shall be deemed to have been personally served on such Government servant on the date it was published in the Official Gazette.”

The order of the Commandant however is an order simplicitor without casting any stigma and does not visit the petitioner with any penal consequences.

The petitioner has also been assigned reasons in support of the decision by the Inspector General subsequently in his order dated



24.03.2017. The reasons assigned are also considered by this Court to be sufficient reasons. The writ petitioner however submits that the reasons are incorrect.

This Court would observe that the reasons which have been assigned by the Inspector General are only to satisfy the petitioner as regards the basis of the order passed by the Commandant under Rule 5(1) of the CCS(TS) Rules. The fact that the original order issued under Rule 5(1) of the Rules is termination simplicitor and without casting any stigma on the petitioner and within the power and jurisdiction of the Commandant in view of the provision contained in Rule 5(1) of the CCS(TS) Rules 1965 under which the order has been passed. No illegality can be attributed to the said order, whereby the petitioner has also been allowed allowances for the notice period.

The writ petition is dismissed.

(Madhuresh Prasad, J)

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