

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.06.2020
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.8582 of 2020
and W.M.P.No.10375 of 2020

P.Nagarajan

... Petitioner

Vs.

1.The Union of India

rep.by its Secretary,
Government of India,
Ministry of Home Affairs,
North Block, New Delhi.

2.The Secretary,

Union Public Service Commission,
Dholpur House, Shah Jahan Road,
New Delhi-110 069.

3.The Deputy Inspector General (CR & Vig.)

Directorate General of CRPF
Ministry of Home Affairs,
Block No.1, CGO Complex, Lodhi Road
New Delhi-110 003.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records of the second respondent in respect of the Advice Report contained in No.3/403/2019-S.I dated 08.05.2020 and quash the same.

For Petitioner : Ms.R.Maheswari

For Respondents : Mr.V.Ashokkumar,

Central Govt.Standing Counsel

ORDER

Heard both sides and perused the documents placed before this Court.

2.It is stated by the petitioner in the affidavit filed in support of this writ petition that he was appointed as Deputy Superintendent of Police (Asst.Commandant) and he had joined the service of Central Reserve Police Force on 14.08.1986 and

rendered commendable service for about 34 years. As a member of the armed forces, there had been instances of threat to life of the petitioner during the discharge of his duties. However, he was actively involved in several encounter operations including the Punjab terrorism during 1988-90, terrorism in Kashmir during 1990-94, 1996-99 and during 2003 to 2007. The services rendered by the petitioner to the Department had been duly recognised and he is the recipient of several medals during his career. While so, he was falsely implicated by CBI based on a frivolous complaint given by some one, who was envious of the steady growth career of the petitioner and a case was registered by CBI in RC MA1 2013A 0013 on 22.03.2013, against the petitioner herein along with two others, for the offences punishable under Section 120-B IPC and Sections 7, 12 and 13(2) r/w Section 13(1) (d) of the Prevention of Corruption Act and the petitioner was committed to the Principal Special Judge for CBI Cases in CC No.7 of 2014, which ended in conviction against him. The issue is with regard to purchase of 2464 Nos. of Coat Combat to the Central Reserve Police Force.

3.It is further stated by the petitioner that an order was passed on 31.07.2018 by the Special Judge for CBI cases convicting the petitioner and on appeal before this Court, suspension of sentence was granted. After the suspension of sentence granted by this Court, the third respondent has passed an order on 27.09.2018, suspending the petitioner from service with immediate effect, based on the order passed by the Lower Court. Thereafter, the third respondent has issued a show cause notice dated 17.10.2018 to the petitioner calling for explanation as to why an appropriate major penalty should not be imposed on him, for which a reply was submitted by the petitioner on 12.12.2018. In the circumstances, the third respondent sought the advice of the second respondent as regards the quantum of penalty to be imposed on the petitioner and upon getting advice by letter dated 08.05.2020 from the second respondent, notice dated 28.05.2020 has been issued to the petitioner calling for explanation for the said advice of the second respondent. With this background, the present writ petition has been filed to quash the advice report of the second respondent.

4.The learned counsel for the petitioner has submitted that Rule 15(3) (b) of CCS (CCA) Rules referred to in the impugned proceedings is inappropriate, since no enquiry has been conducted on the petitioner by appointing an Enquiry Officer. Further, no evidence has been let in, no documents have been filed and no opportunity has been given to the petitioner to substantiate his stand. Hence, the impugned proceedings is

liable to be set aside, according to the learned counsel for the petitioner.

5.Mr.V.Ashokkumar, learned Central Government Standing Counsel taking notice for the respondents, submitted that the petitioner was convicted under Section 120-B IPC and Sections 7, 12 and 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, by the Principal Special Judge for CBI Cases, against which an appeal has been filed by the petitioner in CrI.A.No.459 of 2018, in which substantive sentence of imprisonment was suspended by this Court on 21.08.2018 in CrI.M.P.No.10311 of 2018 and the appeal is pending. In the mean while, the Government of India has recommended for passing final orders in the matter and accordingly, final order has been passed by the Director General (CRPF), Ministry of Home Affairs, New Delhi on 23.06.2020, dismissing the petitioner from service, which shall ordinarily be a disqualification for future employment under the Government, with immediate effect. He has also produced a copy of the said order through e-mail. The learned Central Government Standing Counsel also submitted that if at all the petitioner has any grievance, he has to challenge the said final order dated 23.06.2020, as per law, since this writ petition has become infructuous.

6.The final order passed by the Director General (CRPF), Ministry of Home Affairs, New Delhi on 23.06.2020 is taken on record. In view of passing the final order by the Director General (CRPF), Ministry of Home Affairs, New Delhi, which is consequential to the proceedings impugned herein as well as the notice issued by the third respondent dated 28.05.2020 calling for explanation from the petitioner, nothing survives in this writ petition for adjudication. Hence this writ petition is dismissed, leaving it open to the petitioner to challenge the final order dated 23.06.2020 passed by the authority concerned, in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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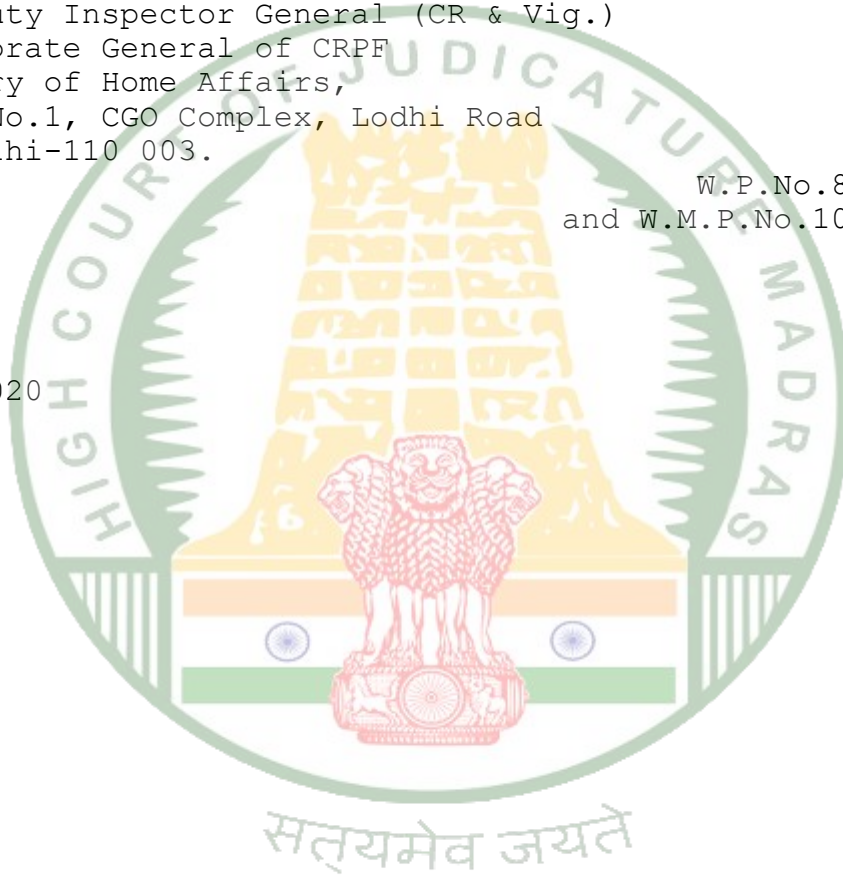
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To

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