



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2020

CORAM:

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THE HONOURABLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

W.P(MD)NO.4396 of 2012

R.Sujin

:Petitioner

.vs.

1.The Inspector General of Police,
CRPF, CGO Complex,
Lodhi Road,
New Delhi-110003.

2.The Deputy Inspector General of Police,
CRPF, Block NO.1,
CGO Complex, Lodhi Road,
New Delhi - 110 003.

3.The Commandant,
193 Bn.CRPF.,
Udhampore(J & K).

4.The Additional Deputy Inspector General of Police,
GC, CRPF.,
Avadi, Chennai - 600 065.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order of the first respondent in No.R-13-18-2011, dated 17.8.2011 confirming the termination order passed by the third respondent in No.D2-01/2009-EC-11, dated 8.8.2009 and to quash the same and consequently to direct the respondents to reinstate the Petitioner in service.

For Petitioner

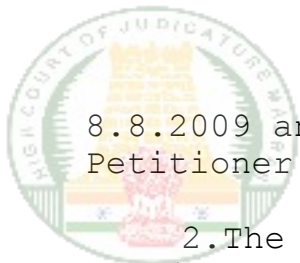
:Mr.C.R.Nimal

For Respondents

:Mr.S.Jeyasingh

O R D E R

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to quash the order of the first respondent in No.R-13-18-2011, dated 17.8.2011 confirming the termination order passed by the third respondent in No.D2-01/2009-EC-11, dated



8.8.2009 and consequently to direct the respondents to reinstate the Petitioner in service.

2.The case of the Petitioner is that the Petitioner was appointed on 9.5.2009 as Constable in CRPF by the fourth respondent stating that the service will be terminated within two years by the appointing authority on one month notice without assigning reason and the Petitioner was required to undergo basic training and if not successful in training, his services will be terminated. Thereafter the Petitioner was posted in Punjab for training. On 3.1.2008, when the Petitioner was attending the horse parade, he fell down and sustained fracture in his leg. Then he was admitted in the hospital at Jalandhar from 3.1.2008 to 7.1.2008 and he was given intensive treatment for fracture. Thereafter the Petitioner was shifted to Civil Hospital, Jalandhar and underwent line test and on 5.8.2008, the Petitioner was once-again admitted in the hospital for treatment. At that time, the Petitioner was advised to take rest from 5.2.2008 to 30.7.2008. The Petitioner was once-again advised to take rest from 31.7.2008 to 13.09.2008 for 45 days. In the meanwhile the health condition of the Petitioner get deteriorated and the Petitioner went to his native place for taking better treatment. The third respondent without considering the health condition had issued a letter dated 31.7.2008 to report for duty on 12.09.2008. The petitioner would further submit that he request the third respondent to extend the leave for quite some time for taking treatment. On 4.8.2008, a surgery was conducted and plates and screws were fixed in the fractured leg. Since the situation still become worse, the Petitioner was admitted in Trivandrum Medical College from 28.11.2008 to 9.1.2009 and thereafter regularly attending Krishnakumar's Orthopedic Hosptial at Nagercoil for treatment. While so, the third respondent by his proceedings dated 8.8.2009 terminated the Petitioner from service. When the Petitioner sent representation in this regard to the second respondent, the second respondent directed the Petitioner to approach the first respondent by way of appeal. When an appeal was filed before the first respondent on 21.6.2011, the same was dismissed by the said authority on 17.8.2011 stating that the appeal is barred by limitation and that the Petitioner was abstained from service for more than six months, even after the repeated advise of the battalion. Left with no other option, the Petitioner has approached this Court by way of present Writ Petition for the relief stated supra.

3.The respondents have filed a counter affidavit stating that Petitioner's basic training started on 3.9.2007. During the course of basic training, when the Petitioner participated in the Horse Riding exercise/Horse 'GHODA' Parade on 3.1.2008, he fell down and sustained fracture in the left leg. Immediately he was taken to GC CRPF Jalandhar Hospital and further referred to Civil Hospital, Jalandhar, Punjab, for further treatment. He was admitted as



inpatient from 3.1.2008 to 8.1.2008 and was on rest from 5.2.2008 to 30.7.2008. He was again sent on home rest from 31.7.2008 to 13.9.2008. After spending time at home, the Petitioner did not appear before the concerned authorities for rendering his duty. He remained absent without seeking any permission from the competent authority. Reminder letters were sent on 11.09.2008 and 10.11.2008 to his home address with a direction to him to report duty, but he remained absent, without reporting for duty. In addition to the above reminders, a letter dated 16.1.2009 was sent to his home address with a direction to report to his nearest CRPF Hospital at GC Pallipuram for taking further treatment, if any. But he has not done so and remained absent without obtaining permission from the competent authority. Further, a representative of the Unit was also sent to his home address with a direction to the RT/GD to report CH Pallipuram. The Petitioner has refused to go to Pallipuram Hospital with the representative and remained absent from appearing before the doctors of the said hospital. The Petitioner had further submitted that he is taking treatment in a private hospital and he sent all those medical records and other materials by way of RPAD on 11.09.2018 and 10.11.2018 informing that he was hospitalized. The Petitioner has violated the Rules and Regulations of the Armed Forces, as he was a temporary Government servant indicating that the basic training which started on 3.9.2008. He has not obeyed the directions of the competent authority as per the provisions of Rule 5 of Central Civil Services(Temporary Service)Rules 1965. The appellate authority after considering the above materials, has terminated his service with entitlement to claim a sum equivalent to the amount of his pay plus allowance for the period of notice falls short of one month vide office order No.D-11.1/2009-EC-II, dated 8.8.2009. Aggrieved by the said order, the Petitioner has filed an appeal dated 14.5.2011 to IGP C/S, CRPF Lucknow and IGP C/S CRPF after considering the materials placed before him, had rejected the appeal filed by the Petitioner stating that the same is devoid of merits vide his order No.R.XIII.18/2011-CS/Adm-3, dated 17.8.2011 and the said Officer has considered the appeal on merits stating that there was no satisfactory reasons stated by the Petitioner and hence rejected the same. Thereafter, the Writ Petitioner was served with a termination letter as per Rule 5 of CCS(TS) Rules, 1965. In view of the above, the respondents prayed this Court to dismiss the Writ Petition with costs.

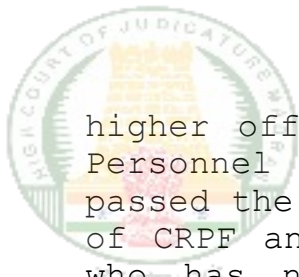
4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. On perusing the materials available before this Court, it is clear that the Petitioner's basic training started on 3.9.2007. During the course of basic training, when the Petitioner participated in the Horse Riding exercise/Horse 'GHODA' Parade on 3.1.2008, he fell down and sustained fracture in the left leg. Immediately he was taken to GC CRPF Jalandhar Hospital and further



referred to Civil Hospital, Jalandhar, Punjab, for further treatment. He was admitted as inpatient from 3.1.2008 to 8.1.2008 and was on rest from 5.2.2008 to 30.7.2008. He was again sent on home rest from 31.7.2008 to 13.9.2008. After spending time at home, the Petitioner did not appear before the concerned authorities for rendering his duty. He remained absent without seeking any permission from the competent authority. Reminder letters were sent on 11.09.2008 and 10.11.2008 to his home address with a direction to him to report duty, but he remained absent, without reporting for duty. In addition to the above reminders, a letter dated 16.1.2009 was sent to his home address with a direction to report to his nearest CRPF Hospital at GC Pallipuram for taking further treatment, if any. But he has not done so and remained absent without obtaining permission from the competent authority. Further, a representative of the Unit was also sent to his home address with a direction to the RT/GD to report CH Pallipuram. The Petitioner has refused to go to Pallipuram Hospital with the representative and remained absent from appearing before the doctors of the said hospital. The Petitioner had further submitted that he is taking treatment in a private hospital and he sent all those medical records and other materials by way of RPAD on 11.09.2018 and 10.11.2018 informing that he was hospitalized. The Petitioner has violated the Rules and Regulations of the Armed Forces, as he was a temporary Government servant indicating that the basic training which started on 3.9.2008. He has not obeyed the directions of the competent authority as per the provisions of Rule 5 of Central Civil Services(Temporary Service)Rules 1965. The appellate authority after considering the above materials, has terminated his service with entitlement to claim a sum equivalent to the amount of his pay plus allowance for the period of notice falls short of one month vide office order No.D-11.1/2009-EC-II, dated 8.8.2009. Aggrieved by the said order, the Petitioner has filed an appeal dated 14.5.2011 to IGP C/S, CRPF Lucknow and IGP C/S CRPF after considering the materials placed before him, had rejected the appeal filed by the Petitioner stating that the same is devoid of merits vide his order No.R.XIII.18/2011-CS/Adm-3, dated 17.8.2011 and the said Officer has considered the appeal on merits stating that there was no satisfactory reasons stated by the Petitioner and hence rejected the same. Thereafter, the Writ Petitioner was served with a termination letter as per Rule 5 of CCS(TS) Rules, 1965.

6. When Armed Personnel suffers fracture while on duty, the concerned authority/the Commandant-193 Bn had given him sufficient opportunities to treat him according to the advice of the concerned medical officers and directed him to report to CGT CRPF Pallipuram Hospital and also sent a representative of 193 Bn to his home town for assisting the Petitioner to go to CRPF Hospital, Pallipuram. But the Petitioner has disobeyed those orders. It is the main duty of the Armed Personnel to obey the orders of the higher officers and their instructions and the act of disobeying the orders of the



higher officers is the major disobedience of a disciplined Armed Personnel Service Rules and accordingly the Officer concerned has passed the termination Order. He was also not a permanent employee of CRPF and he was only trainee from 3.9.2008 and a probationer, who has not completed his basic training of RT/GD. His appeal petition was considered by the concerned Appellate Authority/IGP C/S CRPF, Lucknow and has rejected the same as there was no convincing reasons and as the Petitioner has failed to turn up to duty and miserably disobeyed the orders of the higher officers which is against the basic principles of the Armed Personnel and the said order of the appellate authority is in order.

7.Hence this Court is of the view that in the absence of valid reasons for taking treatment in the private hospital when the Department was ready to treat the Petitioner in their own hospital which are providing better treatment with competent doctors and the refusal of the Petitioner to take treatment in that hospital definitely falls under the head of disobeying the orders of the higher authority if Uniformed Forces where discipline is the major condition for being appointed, but sent a telephonic message that he is taking treatment at private hospital and sent the Medical documents by Registered post with acknowledgement due. Further the Petitioner ought to have filed an appeal within 30 days from the date of termination. But belatedly, after 18 months, the Petitioner has filed an appeal before the appellate authority and the same is also rejected as barred by limitation by the appellate authority. As such, there is no merit on the side of the Petitioner to accede to his request and the termination order passed by the authorities as referred to above is upheld.

8.In the result, the Writ Petition strands dismissed. No costs.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)

vsn

To

1.The Inspector General of Police,
CRPF, CGO Complex,
Lodhi Road,
New Delhi-110003.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Deputy Inspector General of Police,
CRPF, Block NO.1,
CGO Complex, Lodhi Road,
New Delhi - 110 003.

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3.The Commandant,
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4.The Additional Deputy Inspector General of Police,
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+1 CC to Mr.S.JEYASINGH, Advocate (SR-9809[F] dated 03/03/2020)

+1 CC to Mr.R.MOHANASUNDARAM, Advocate (SR-9793[F]dated
03/03/2020)

ORDER MADE IN
W.P(MD)No.4396 of 2012
03.03.2020

VB(16.03.2020) 6P 7C