



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.10.2020

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THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P.(MD) No.7897 of 2012

WEB COPY

V.Rajendran

...Petitioner

Vs.

1.The Union of India

Rep. by its Secretary to Government,
Ministry of Home Affairs, New Delhi.

2.The Director General

Central Reserve Police Force,
C.G.O. Complex,
Lodhi Road,
New Delhi.

3.The Deputy Inspector General of Police,

Central Reserve Police Force,
Avadi, Chennai - 600 065.

4.The Commissioner

42 Bn, CRPF, Old K.V. Building,
Barkas, Hyderabad - 05.

5.The Adjutant

42 Bn, CRPF, Old K.V. Building,
Barkas, Hyderabad - 05.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of CERTIORARI FIED MANDAMUS to call for the records relating to the order passed by the 3rd Respondent in his Office order No.R.XIII-9/2012-ESTT-III, dated May 2012 confirming the order of the 4th Respondent in his order No.P.VIII-9/2010-42-EC-II(V.R) dated 02.11.2011 and quash the same and to direct the respondents to take the petitioner into the strength of CRPF as Constable and to pay all monetary benefits.

For Petitioner : Mr.K.Vadivel

For Respondents 1 to 5: Mr.D.Saravanan

Central Government Standing Counsel



O R D E R

The order of dismissal from service issued by the fourth respondent which was confirmed by the third respondent in the appeal is under challenge in the present writ petition.

2.The writ petitioner joined as Constable in the Central Reserve Police Force on 31.10.1987 at Avadi, under the control of the second respondent. He was posted at Punjab initially and thereafter, Nagaland, Chennai, Srinagar and Assam and he has received a phone call regarding the alleged involvement in a criminal case by his brother-in-law Mr.Selvamani, by using the name of the petitioner for the alleged unlawful gains. Due to the repeated phone calls from his native place, regarding the criminal case, he was disturbed and left the job and came to his native place. Thereafter, he sent a leave letter to the Authorities Competent and not reported duty.

3. In view of the fact that the writ petitioner remain, unauthorisedly absent, disciplinary proceedings were initiated, charge memo was framed, an enquiry was conducted and the final order of dismissal from service was issued. The appeal filed by the writ petitioner was also rejected.

4.The learned counsel appearing on behalf of the writ petitioner strenuously contended that the writ petitioner has served about 23 years in the CRPF and got unblemished record of service. It was an unfortunate circumstances, forced the writ petitioner to leave the work place and come over to his native place. Such a situation was forced one and therefore, a lenient view is to be taken, with reference to the allegation of unauthorized absent. It is contended that the writ petitioner has not committed any act of misconduct affecting the decorum of the uniformed forces. Contrarily he came to his native place due to frequent phone calls regarding the criminal case and therefore, the punishment of dismissal from service is harsh and disproportionate.

5.The learned counsel for the petitioner further contended that the copies of the document and Enquiry Officers reports were in Hindi Language and the writ petitioner had no knowledge of reading and writing in Hindi Language. He knows spoken Hindi language and he does not know how to read and write.

6.The learned counsel for the petitioner made a submission that the petitioner sent a representation dated 15.07.2011, requesting the Authorities to furnish the copies of the documents in English translation. However, there is no



response for the said letter. In view of the fact that the enquiry was conducted in an unknown language to the writ petitioner, the entire proceedings are liable to be scrapped.

7. The learned Central Government Standing Counsel appearing on behalf of the respondents disputed the contentions by stating that the petitioner himself pleaded guilty of the charges before the Enquiry Officer. He remained unauthorisedly absent for more than 566 days. The charges were proved beyond any pale of doubt and he, himself admitted the charges. Therefore, there is no reason whatsoever to interfere with the order of punishment. The CRPF being a disciplined force long unauthorized absent by abandoning the duty cannot be viewed leniently. Thus the writ petition is devoid of merits and liable to be dismissed.

8. Let us now consider the grounds raised by the writ petitioner. The first ground raised by the writ petitioner is that he is unaware of Hindi language more specifically reading and writing. Thus, he was deprived of his opportunity to defend his case. On that ground the entire enquiry is liable to be set as side.

9. To substantiate the said ground, the learned counsel for the writ petitioner solicited the attention of this Court, with reference to the representation submitted by the writ petitioner on 15.07.2011. Perusal of the said letter is enclosed in Page No.1 of the typed set along with the writ petition, reveals that there is no acknowledgement for the said letter. Even there is no proof that the petitioner has sent this letter to the Assistant Commandant. The letter was addressed by name i.e. Mr. Ananri Sharan, Assistant Commandant, Enquiry Officer, in the absence of any proof of communication and the acknowledgement the sanctity of the said letter cannot be trusted upon. It is a letter which is enclosed without any proof to establish that the letter was communicated to the Disciplinary Authority and the Disciplinary Authority acknowledged the same. Unfortunately, no such proof is available. Thus the genuinity of the said letter given on 15.07.2011 cannot be trusted upon and on that ground the order of termination cannot be scrapped.

10. There is no whisper about the said letter in any of the proceedings of the respondents contrarily the order of the Appellate Authority considered this aspect, regarding serving of the documents to the petitioner and the findings are extracted hereunder:

"(v) During the course of inquiry, copy of each and every statements have been handed over to the petitioner. He never raised objection about conducting the enquiry in Hindi. The



"appellant" had already served in this force for more than 23 years and therefore, he has adequate knowledge of Hindi. Further after every statements it is mentioned that the recorded statements are "Read Over Explained and admitted correctly" (-----words in Hindi-----) and after admitting the same he had affixed his signature also. He should have raised his objection before admitting the same in each statements and therefore the allegation of the "appellant" is baseless."

11. The finding of the Appellate Authority reveals that all the documents were handed over to the writ petitioner. He has not raised any objection about conducting of enquiry in Hindi. The writ petitioner was served about for the past 23 years and he has adequate knowledge in Hindi. This apart every statements mentioned in the documents are read over and explained and admitted as correct. In other words, the statements in the documents were read over to the writ petitioner during the enquiry and he himself had admitted the correctness of the statements in the documents. It is pertinent to note that even during the enquiry the petitioner pleaded guilty of the charges framed against him and the writ petitioner pleaded guilty by appearing before the Enquiry Officer on 21.07.2011. Thus by merely enclosing a letter for which there is no proof regarding communication or acknowledgement, now the writ petitioner cannot raise a ground that the documents were in Hindi and the same were not translated in English. The ground is taken in order to attack the impugned order one way or the other and such a ground was not pleaded before the Authorities Competent at the earliest point of time. Contrarily, the writ petitioner pleaded guilty of charges and further he admitted that he had understood the contents in the statement and the said point was also considered by the Appellate Authority. This being the factum, this Court is of the considered opinion that the grounds raised in this regard, is unacceptable.

12. The Central Reserve Police Force is a Uniform Disciplined Force. There cannot be any compromise in the matter of discipline as far as Uniformed forces are concerned. Admittedly, the petitioner remained unauthorisedly absent for about 566 days. While he was on duty, he left the job. In the event of showing any leniency in such misconducts then a wrong precedent would be created and it would be difficult for the Competent Authority to maintain morale and discipline in the Uniformed Services. Maintenance of disciplinary and morale is a tough job for the Higher Authorities in disciplined forces. If any misplaced sympathy is shown by the Courts then the same would send a wrong message to the Uniformed Service personnel and the same would cause inconvenience to the efficiency and effective administration



of Uniformed Services. Thus, there is no place for misplaced sympathy in such kind of cases. Undoubtedly as pointed out by the learned counsel for the petitioner, the petitioner has not committed any other misconduct other than the unauthorized absence. However, abandoning the duty is a serious misconduct as per disciplinary rules in Uniformed Services. For example, if a Border Security Force Personnel posted in border areas abandoned the duty and gone to his native, the consequences will be disasters. The security of the nation is compromised. Enemies may enter into our territory, such things have happened recently in Ladak, the China border. During certain occasions, the casual performance of duties are resulting such intrusions and encroachments of the territory. The recent China intrusions in Ladak region is the classic example where the Uniformed Service Personnel are expected to be vigil in guarding our great nation. Uniformed Personnel may face some difficulties in hard areas. To compensate the difficulties, decent remunerations and allowances and facilities are provided to these Uniformed Personnel and accepting the nature of job, they are performing their duties and responsibilities. While so, abandoning the duty should be considered as a grievous misconduct. Comparing to Civil Services in Uniformed Services better salary is paid and best facilities are provided by the Government of India. When the Uniformed personnel are availing all such facilities as well as decent salary, they are expected to perform their duties with utmost integrity, honesty and devotion.

13. As far as the present writ petition is concerned the writ petitioner had not only pleaded guilty, but also accepted the contentions in the documents furnished to him, during the course of enquiry. The order of the Appellate Authorities clearly speaks about the said position and therefore, the grounds raised by the writ petitioner, is devoid of merits and accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

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To

1.The Secretary to Government,
Ministry of Home Affairs, New Delhi.



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Central Reserve Police Force,
C.G.O. Complex,
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Barkas, Hyderabad - 05.

+1 CC to M/s.A.S. MUJIBUR RAHMAN, Advocate (SR-19481[F] dated
08/10/2020)

+1 CC to M/s.D. SARAVANAN, Advocate (SR-19515[F] dated 09/10/2020
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TR(16.10.2020) 6P 8C