



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2020

CORAM:

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. (MD) No. 5266 of 2014

and

M.P (MD) .No. 2 of 2014

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R.Muruga Dass

... Petitioner

Vs.

- 1.The Director General,
Central Reserve Police Force,
CGO Complex, Lodhi Road,
New Delhi-110 003.
- 2.The Inspector General of Police,
Northern Sector,
Central Reserve Police Force,
West Block, No.8, R.K.Puram,
New Delhi-110 066.
- 3.The Deputy Inspector General of Police,
Central Reserve Police Force,
New Delhi.
- 4.The Deputy Inspector General of Police,
Group Centre, Avadi,
Chennai.
- 5.The Commandant,
54th Battalion
Central Reserve Police Force,
Bawana, Delhi-39.
- 6.The Commandant,
164 Battalion,
CRPF, Kokramag,
Ananthanag,
C/o.56 APO,
Jammu & Kashmir.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the 2nd respondent in his office order No.R.XIII.6/2012-NS.Adm-I, dated 08.01.2013 quash the same in so far as the paragraph (b) and (d) of paragraph 6 of the order and to direct the respondents to pay the salary from the period 13.03.2001 to 30.01.2013 treating as duty period and to pay increment, promotion and ACP and all other benefits take the



For Petitioner : Mr.K.Vadivelu

For Respondents : Mr.K.R.Laxman
Senior Panel Counsel

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ORDER

The order of punishment, which was modified by the revisional authority in proceeding, dated 08.01.2013, is under challenge in the present writ petition.

2.The writ petitioner joined in the CRPF as Constable on 25.09.1992. He served in various places. The petitioner states that he received an information from his native place that his mother was serious and his wife was missing and therefore, he applied for leave and gone to his native place.

3.The learned counsel appearing on behalf of the petitioner states that the leave was also sanctioned. In spite of the fact that the reasons for availing leave are genuine and the petitioner has also submitted the leave letter, a charge memorandum was issued stating that the writ petitioner had over stayed from leave and unauthorizedly absent for about 46 days without sufficient reasons. The writ petitioner denied the charges and participated in the process of enquiry and major penalty of removal from service was imposed. The petitioner preferred an appeal and the appellate authority confirmed the order of removal. Against the said order, the petitioner has preferred a revision petition on 25.07.2012 and the revisional authority viz., the Inspector General of Police, CRPF, modified the punishment by quashing the original order passed by the disciplinary authority as well as the appellate authority, who confirmed the punishment of removal from service. Thereafter, the writ petitioner has been reinstated in service. However, the writ petition is filed with reference to the punishment of withholding of one increment for a period of one year with effect from the date of issue of the order with cumulative effect and further regulating the period as non-leave.

4.The learned counsel appearing for the writ petitioner made a submission that the petitioner had properly submitted the leave letter and gone to his native to solve certain domestic problems. Thus, the requisition is genuine and therefore, the punishment imposed by the Revisional Authority is excessive and the same is liable to be set aside.

5.The learned counsel appearing on behalf of the respondents disputed the said contentions by stating that the writ petitioner is a habitual unauthorized absentee and on earlier occasions, he had abandoned his duty on several occasions. Therefore, no further leniency is to be shown. The revisional authority himself had taken a lenient view by modifying the punishment of removal from



service and therefore, further consideration need not be shown to the writ petitioner.

6. The counter affidavit filed by the fourth respondent reveals that the petitioner has committed an act of misconduct by overstayed from leave for 287 days on different occasions during his service of more than 9 years and keeping in view of length of service rendered by the petitioner, a lenient view was taken and the punishment of removal from service was modified. The statement showing the overstayed and unauthorized absence of the writ petitioner are stated, as extracted hereunder:

Sl.No.	Leave granted Year	Overstayed		No. of days
		From	To	
1.	1993	20/12/93	21/12/93	02 days
2.	1995	17/10/95	05/12/95	50 days
3.	1998	11/10/98	01/01/99	83 days
4.	1999	06/05/99	18/08/09	105 days
5.	2000	17/06/00	01/08/2000	46 days

7. This Court is of the considered opinion that CRPF being a uniformed service, utmost discipline is of paramount importance. There cannot be any compromise in the matter of maintenance of discipline amongst the personnel. Thus, a bad precedent cannot be created, while interfering with the punishment imposed, more specifically, misconduct of habitual unauthorized absentees. In the present case, a charge memorandum was issued for the overstayed of 46 days. However, the counter affidavit reveals that on several occasions, the petitioner had stayed in his native and such details are also furnished. The order of removal passed by the disciplinary authority, which was confirmed by the appellate authority was reviewed and modified by the revisional authority by taking a lenient view. The revisional authority had considered the length of services as well as the domestic problems faced by the petitioner before the revisional authority.

8. Taking note of the facts and circumstances the major penalty of removal from service was modified and the punishment of stoppage of increment for one year with cumulative effect is imposed. Treating the period of absence as non-duty cannot be questioned in view of the fact that the petitioner had not worked for the said period and hence, the principle of 'no work no pay' will be applicable. Considering the overall fact that a lenient view had already been taken by the revisional authority, this Court is not inclined to grant any further concession or leniency, as uniformed personnel are expected to maintain utmost discipline and integrity in their services. Therefore, the writ petition is



devoid of merits and the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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/ /2020

Sub Assistant Registrar (CS)

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To

(*) to be substituted the order already despatched on 18/11/2020

1. The Director General,
Central Reserve Police Force,
CGO Complex, Lodhi Road, New Delhi-110 003.
2. The Inspector General of Police,
Northern Sector,
Central Reserve Police Force,
West Block, No.8, R.K.Puram,
New Delhi-110 066.
3. The Deputy Inspector General of Police,
Central Reserve Police Force,
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5. The Commandant, 54th Battalion
Central Reserve Police Force,
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6. The Commandant, 164 Battalion,
CRPF, Kokramag, Ananthanag,
C/o.56 APO, Jammu & Kashmir.

(*)+1 CC to Mr.A.MUJIBUR RAHMAN, Advocate SR.No. 20849

(*)+1 CC to Mr. Special Government Pleader, SR.No. 21016

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VR (CO)

<https://heservices.ecourts.gov.in/heservices/> KP (11-11-2020) 4P 7C

TR (22/01/2021) 4P 9C