

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9364 of 2019**

=====

Arvind Kumar S/o Sajivan Paswan @ Sanjiwan Paswan R/o Village-Samarkand, Post Office-Korma, P.S.-Ghosi, District-Jehanabad dismissed CT/GD No. 951140653 C.R.PF

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, Government of India, New Delhi
2. The Director General of Central Reserve Police Force Block No.-1, CGO Complex, Lodhi Road, New Delhi
3. The Special Director Central Reserve Police Force, Jammu and Kashmir Zone, Group Center Campus, Bantalab, Jammu
4. The I.G. Central Reserve Police Force, Jammu and Kashmir Zone, Bantalab, Jammu
5. The D.I.G. Central Reserve Police Force, Jammu and Kashmir Zone, Bantalab, Jammu
6. The I.G. Central Reserve Police Force, Patna, Bihar
7. The Commandent 116 Battalion, CRPF, Dibrugarh, Assam Now Jammu

... .. Respondent/s

=====

**Appearance :**

|                      |   |                                                                  |
|----------------------|---|------------------------------------------------------------------|
| For the Petitioner/s | : | Mr. Prince Kumar Misaka, Advocate                                |
| For the Respondent/s | : | Mr. Awadhesh Kr. Pandey, Sr. CGC,<br>Mr. Rakesh Kumar Sinha, CGC |

=====

**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**ORAL JUDGMENT**  
**Date : 20-12-2021**

Heard the learned counsels for the parties.

2. In the instant petition, petitioner has prayed for  
following reliefs:

“(i) For issuance of an appropriate Writ/ Writs, direction/directions in the nature of Certiorai for setting aside the order contained in memo no.-RXIII-126/2013-Vig (legal) dated 09.02.2016 issued by the Director General, Central Reserve Police Force (herein after called CRPF) whereby



the memorial filed by the petitioner against the order in Appeal dated 04.04.2002 passed by the DIG, CRPF preferred against the order of dismissal from the service dated 26.07.2001 passed by the Commandant 116 Battalion, CRPF and in consequence there upon to set aside the original order of dismissal as well as the order under Appeal as mentioned above OR IN ALTERNATIVE

(ii) For issuance of an appropriate Writ/ Writs, direction/directions in the nature of Mandamus or Writs, order or Orders directing the respondent authorities to consider the case of petitioner for grant of Compassionate Allowance in terms of proviso to sub-clause (1) of Rule-41 of the CCS Pension Rules, 1972 taking into consideration that the absence from the service for a particular period was under peculiar and under compelling circumstances leading to the threat of life of his children, wife and ailing old parents.

(iii) For further kind indulgence of this Hon'ble Court to direct the respondents to count the services rendered by the petitioner in the Indian Army for the purpose of calculating Compassionate allowance in terms of Rule-19 of CCS Pension Rules, 1972 and further to look into the matter and the concerned respondents may be directed to produce all connected records for perusal for passing an appropriate order.

(iv) For any other relief/reliefs, which the Hon'ble Court may grant in general interest, that may be deemed appropriate and necessary in this case."

3. Learned counsel for the petitioner, on instruction, submitted that petitioner intends to give up 1<sup>st</sup> prayer and it is



not pressed.

4. In respect of prayer no. 2, it is to be noted that petitioner was appointed as a Constable (GD) on 15.08.1995. He was dismissed from service on 26.07.2001 on the allegation that he remained unauthorized absent for certain period of 203 days. Having regard to the length of service and the fact that petitioner was not involved in any misappropriation case, disciplinary authority should have invoked Rule 41 of CCS (Pension) Rules, 1972 to the extent whether petitioner could be provided compassionate allowance or not? In this regard, petitioner pointed out that if a government servant is dismissed from service, the disciplinary authority is required to take note of whether such a dismissed employee is entitled to compassionate allowance or not? Such order is not passed by the disciplinary authority while invoking Rule 41 of CCS (Pension) Rules, 1972. The petitioner submitted representation dated 21.11.2018 and the same is pending consideration. The disciplinary authority or appointing authority have not passed any order either invoking rule 41 read with petitioner's representation dated 21.11.2018.

5. In all fairness, the disciplinary authority should have *suo motu* passed order as to whether petitioner is entitled



to compassionate allowance in terms of Rule 41 of Rules, 1972 or not? Therefore, the concerned respondent is hereby directed to proceed to invoke Rule 41 as to whether petitioner is entitled to compassionate allowance or not with reference to alleged allegations relating to remaining unauthorized absence for a period of 203 days read with the fact that he was initially appointed on 15.08.1995 and he was dismissed on 26.07.2001.

6. Aforesaid exercise shall be undertaken by the appointing authority/disciplinary authority within a period of two months from the date of receipt of this order and pass speaking order.

7. With the above observation, the instant petition stands disposed of.

**(P. B. Bajanthri, J)**

rakhi/-

|                   |  |
|-------------------|--|
| AFR/NAFR          |  |
| CAV DATE          |  |
| Uploading Date    |  |
| Transmission Date |  |

