

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2066 of 2021

King Mahendra Singh Son of Late Rajendra Singh Resident of Village-
Thanapur, Post Office- Saddopur, Via-Main Police Station-Alipur, Block-
Tekari, District-Gaya, State-Bihar, Pin-8044351.

... .. Petitioner/s

Versus

1. The Union of India through the Department of Home (Para Military), New Delhi.
2. The Inspector General of Police (Training), Directorate, C.R.P.F. (Training), New Delhi
3. The Deputy Inspector General (Training-21), Directorate, New Delhi.
4. The Inspector General, West Bengal Sector, C.R.P.F. Sector-3, Kolkata (West Bengal).
5. IGP, Southern Sector, C.R.P.F., Bangalore.
6. The Deputy IGP (Admn) K.K. Sector, C.R.P.F. Bangalore.
7. The Inspector General of Police, Karnataka and Kerala Sector, C.R.P.F., G.C. Campus, Yelahanka, Bengaluru, Karnataka.
8. The D.I.G.P./ Principal Recruits Training Centre, C.R.P.F. Avadi, Chennai (Tamil Nadu).
9. The Commandant, RTC, C.R.P.F., Avadi, Chennai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Arun Kumar, Advocate
For the Respondent/s	:	Dr. K. N. Singh, ASG
For the Union of India	:	Mr. Praveen Kumar Sinha, Sr. Advocate
	:	Ms. Radhika Raman, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 08-12-2021

In the instant petition, petitioner has prayed for following
relief/reliefs:

“(i) A writ in the nature of certiorari setting aside the Office Order No. D.II-1/2016 ECIII dated 25.05.2016 issued under signature of Respondent No. 9 as contained in Annexure-3 whereby and where under despite completion of 44 weeks training, without disclosing the reason under provisions of ECS (Temporary service) Rule 1965 petitioner



has been terminated from service without compliance of provision of Rule.

(ii) For setting aside the further order bearing No. 02 of 2017 EC-IV dated 05.06.2017 passed Respondent No. 7 issued by Appellate authority as contained in Annexure-8 whereby and where under despite having directed to provide trainer to the petitioner for 30 days to the Respondent No. 8 and 9 for giving training to the petitioner and evaluate his performance but without permitted to even remain within the premises of training centre scarcely allowed for few hours and with oblique motive and malafide intention of Respondent No. 8 and 9 due to language problem despite having performed well in all the event/Tests petitioner has been shown failed in evaluation and rejected the appeal affirming the order of termination.

(iii) To reinstate the petitioner in service with all consequential benefits and take evaluation test after giving him an opportunity under the supervision of any higher authorities at different training centre so that ill motive and mala fide intention of Respondent No. 8 and 9 may be exposed.

(iv) Any other order/orders for granting any other relief/reliefs or which the petitioner is found entitled to in the facts and circumstance of the case.”

Petitioner was appointed with respondent C.R.P.F. as a Constable/G.D. (General Duty) and he was undergoing training. His services were terminated on 25.05.2016. Feeling aggrieved and dissatisfied with the order of termination, petitioner preferred appeal. Appeal was rejected on 05.06.2017. Hence, present petition.

Learned counsel for the petitioner submitted that there is non compliance to Sub-Rule (1) of Rule 5 of Central Civil Service (Temporary Service) Rules, 1965 (for short “Rules 1965”). It is



further submitted that the same has not been appreciated by the Appellate Authority while passing order on 05.06.2017.

Per contra, learned counsel for the respondent resisted the aforesaid contention and submitted that the Disciplinary Authority and Appellate Authority have taken note of the relevant Rules and proceeded to pass orders.

Heard learned counsel for the respective parties.

Order of termination reads as under:

**“OF THE DIGP/PRINCIPAL, RTC C.R.P.F. AVADI,
CHENNAI 65**

Dated 25th, May 2016

ORDER

TERMINATION OF SERVICE

In pursuance of proviso to Sub Rule (1) of Rule 5 of Central Civil Services (Temporary Service) Rules, 1965, Ravindra Prasad, Comdt, RTC, CRPF, Avadi, Chennai- 600 065 hereby terminate forthwith the services of No. 145021103 RT/GD King Mahendra Singh of 165 Bn and directed that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rates at which he was drawing them immediately before the termination of his service or, as the case may be, for the period by which such notice falls short of one month.

Sd/-

(Ravindra Prasad)

COMDT, RTC, CRPF, AVADI

To

No. 145021103 RT/GD King Mahendra Singh

S/O Shri Rajendra Singh,

3rd Wing RTC Avadi,

(Through Wing Commander, 3rd Wing)

Sd/-

No. 145021103 RT/GD King Mahendra Singh

NO.D.II-1/2016 EC III

Dated, the 25th May, 2016

Copy to :



- 1) The D.I.G.P, G.C., CRPF, Dugapur for information and necessary action.
- 2) The Commandant 165th Bn, CRPF, for information and necessary action.

Sd/-

(Ravindra Prasad)

COMDT, RTC, CRPF, AVADI

Internal:-

1. VP (Trg/Adj) for information and necessary action.
2. Wing Commander-III (in triplicate) for information and a copy of this order may please be handed over to the above individual and return the other copy after endorsing the receipt, duly attested for our record.”

The Disciplinary Authority/Appointing Authority proceeded to terminate the services of the petitioner while invoking Sub Rule (1) of Rule 5 of Central Civil Services (Temporary Service) Rules, 1965. Rule 5 reads as under:

“Termination of temporary service- (1)(a) The services of a temporary Government Servant shall be liable to termination at any time by a notice in writing given either by the Government Servant to the appointing authority or by the appointing authority to the Government Servant.

(b) the period of such notice shall be one month: Provided that the services of any such Government Servant may be terminated forthwith by payment to him of a sum equivalent to the amount of his pay plus allowances for the period of the notice at the same rates at which he was drawing them immediately before the termination of his services, or , as the case may be, for the period by which such notice falls short of one month.”

Perusal of Sub Rule (1) cited *supra* it is crystal clear that Appointing Authority/Terminating Authority is required to issue



show cause notice before passing order of termination. Undisputedly, order of termination dated 25.05.2016 is not preceded by notice. Further, the Appellate Authority has also not examined the aforesaid provision of law and there is a lacunae in the order of termination.

In the light of these facts and circumstances, the petitioner has made out a case so as to interfere with the order of termination and Appellate Authority's order.

Accordingly, both orders dated 25.05.2016 and 05.06.2017 are set aside.

Writ Petition is allowed.

The concerned respondent is hereby directed to calculate monetary benefits for the intervening period from the date of termination i.e. 25.05.2016 to till reinstatement and continued to pay salary attached to the post and disburse in favour of the petitioner.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.12.2021
Transmission Date	NA

