



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 07.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.10489 of 2009

J.Ramya

.. Petitioner

Vs.

1. The Union of India,
Rep. by its Secretary to the Government,
Department 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,
Central Reserve Police Force,
Group Centre, Avadi, Chennai 600 065.
4. The Commandant, Central Reserve Police Force,
135 Mahila Bn. Gandhi Nagar, Gujarat.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari Mandamus to call for the records relating to the order passed by the fourth respondent dated 24.12.2008 in No.P.VIII.10/07-EC-II-135 and quash the same and to direct the respondents to take the petitioner into the strength of CRPF as Constable GD (Mahila) with all monetary benefits.

For petitioner : Mr.A.S.Mujibur Rahmam

For respondents : Mr.P.G.Santhosh Kumar,
Standing Counsel for R1 to R4.



ORDER

This writ petition has been filed to quash the order passed by the fourth respondent dated 24.12.2008 and to direct the respondents to take the petitioner into the strength of CRPF as Constable GD (Mahila) with all monetary benefits.

2. The case of the petitioner in brief:

The petitioner had joined in the Central Reserve Police Force as Constable GD (Mahila) under the third respondent Group Center, Avadi on 13.02.2003. She had completed her 11 months training at Pune and was posted at 135 M Bn at Gujarat from January 2007. She applied Earned Leave for 40 days from 23.04.2007 to 01.06.2007 for attending her sister's marriage. However, due to severe back pain she was admitted in the hospital and hence, on 25.05.2007, she gave a letter to the 4th respondent seeking extension of leave. But she has not received any reply. Subsequently, the petitioner received a letter on 11.06.2007 from the 4th respondent in Hindi language and she sent a reply to communicate the letter in English language, so as to enable her to send reply to the letter received on 11.06.2007. Thereafter, the 4th respondent sent letters dated 25.08.2007 and 28.08.2007 in Hindi language. She had also sent reply with a same request. While that being so, the fourth respondent sent a enquiry report dated 21.04.2008 in English stating that exparty enquiry was conducted, and the enquiry officer filed report holding that the charge framed against the petitioner has been proved. The petitioner sent a request to the fourth respondent requesting to communicate the charge memo in English language. But there was no reply.

2.1. Since the fourth respondent has not sent any reply, the petitioner sent letters dated 22.11.2008, and 31.12.2008 stating the reason for over stay and requested to permit her to re-join duty. But the 4th respondent vide order dated 24.12.2008, informed the petitioner that departmental enquiry has been finalized and the order of dismissal from service has been passed on 07.05.2008. Since the order of dismissal from service was not communicated to the petitioner, this writ petition has been filed challenging the communication dated 24.12.2008 sent by the fourth respondent and consequently direct the respondents to take petitioner into the strength of CRPF as constable GD Mahila with all monetary benefits.

3. The learned counsel appearing for the petitioner submitted that the fourth respondent has passed the exparte enquiry order, without providing any opportunity of hearing to the petitioner and has passed the impugned punishment order, by dismissing the petitioner from service. Hence, it is liable to be set aside.



4. The learned counsel appearing for the respondents submitted that, sufficient opportunities were granted to the petitioner to appear for enquiry and the fourth respondent has sent communications to the petitioner on various dates to appear for enquiry. But the petitioner did not respond to the same. Therefore, the fourth respondent has proceeded the enquiry and had passed the final order. He further submitted that, still, the petitioner is residing in the same address, as verified from the affidavit in support of the writ petition. However, all the communications sent by the respondents were returned with an endorsement undelivered. According to the respondents, the said non receipt of communication by the petitioner is nothing but an wanton act to evade enquiry proceedings from appearing before the authority concerned. Therefore, the authorities have granted ample opportunities to the petitioner, but the petitioner neither respond, nor received the communication, with an intention to evade the enquiry proceedings. The respondent has not granted leave to the petitioner. Therefore, disciplinary proceedings were proceeded as against the petitioner and final order has been passed and it does not warrant any interference by this court.

5. Heard the rival submissions made by the learned counsels to the parties and I have perused the materials on record.

6. The petitioner had submitted her application to sanction 40 days Earned Leave from 23.04.2007 to 01.06.2007. Thereafter, she made application on 24.05.2007 seeking extension of leave, after expiry of sanctioned earned leave. But it was rejected by the fourth respondent on the ground that without any medical documents, the application has been sent. Therefore, the respondents have initiated disciplinary proceedings against the petitioner. The respondents have sent a communications to the petitioner on 19.06.2007 in reply to the petitioner's application dated 24.05.2006, by directing her to report on duty. Again on 15.08.2007, another communication was sent to the petitioner directing her to report on duty. The above said communications were received by the petitioner. However, it is the contention of the petitioner that the afore said communications were in Hindi language, therefore, she was not in a position to understand it and gave reply, requesting to communicate the letter in English language.

7. Thereafter, the respondents have conducted enquiry and declared the petitioner as deserter from the force vide order No.D.II-10/2007-EC-II-135 dated 27.11.2007 and the same was sent to the petitioner. However, it was returned back as undelivered. Subsequently, Warrant of Arrest was issued against the petitioner on 27.02.2008, and then, departmental enquiry was conducted. The enquiry officer's report dated 21.04.2008 was



also sent to the petitioner and it was received by her.

8. In this writ petition, the petitioner has challenged the impugned letter dated 24.12.2008 issued by the fourth respondent, in reply to the letter sent by the petitioner, wherein, it is stated that departmental enquiry has been finalized and the order of dismissal from service has been passed on 07.05.2008 itself. After came to know about the order of dismissal, the petitioner ought to have taken steps to challenge the above dismissal order dated 07.05.2008. The respondents have filed counter affidavit, in which they have clearly stated that the petitioner was dismissed from service on 07.05.2008. They have also filed typed set of papers, enclosing all the communications sent by them to the petitioner, including the order of dismissal dated 07.05.2008. Till now, the petitioner has not taken steps to challenge the final order of dismissal from service passed against the petitioner. The present impugned order is only reply letter sent by the fourth respondent to the letter sent by the petitioner. In this writ petition, the petitioner has sought to quash the reply sent by the respondent dated 24.12.2008 and to direct the respondent the respondents to reinstate her into service as Constable GD (Mahila) with all monetary benefits. Without challenging the order of the dismissal, this writ petition, seeking to quash the reply sent by the respondent and consequential relief of reinstatement in the service, cannot be entertained. Therefore, the petitioner is not entitled to get relief as sought for in this writ petition.

9. Accordingly, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

mst

To

1. The Secretary to the Government,
The Union of India,
Department 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,
Central Reserve Police Force,
Group Centre, Avadi, Chennai 600 065.

4. The Commandant, Central Reserve Police Force,
135 Mahila Bn. Gandhi Nagar, Gujarat.

+1cc to Mr.P.G.Santhosh Kumar, Advocate, S.R.No.64945

W.P.No.10489 of 2009

SMI (CO)
SU(03/01/2022)