

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13312 of 2018

Piyush Kumar S/o Sri Ashutosh Kumar resident of Village - Sirdialpur, P.S. Patori, District Samastipur.

... .. Petitioner/s

Versus

1. The Union Of India through the Commandant in Chief C.R.P.F., New Delhi.
2. The Inspector General of Police, Bihar Sector C.R.P.F. Ashiyana Digha Road, Patna.
3. The Deputy Inspector General of Police, C.R.P.F. Bihar Section, Ashiyana Road, Patna.
4. The Deputy Inspector General of Police Administration C.R.P.F. Muzaffarpur, Bihar.
5. The Commandant of 153 Bn. The D.I.G.P. Group Centre, C.R.P.F., Muzaffarpur, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Singh, Adv
For the Respondent/s	:	Mr. Ravinder Kumar Sharma, Adv
		Mr. Lokesh Kumar, Adv

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 01-11-2022 The writ petition has been filed seeking quashing of the order dated 18.05.2017 issued by the Commandant of 153 Battalion of the Central Reserve Police Force, Muzaffarpur (Bihar) (hereinafter referred to as 'CRPF'). The order has been passed under the Proviso to sub-rule(1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 [for short 'CCS (TS) Rules].

2. The order *prima-facie* is an order of termination without inflicting any stigma or visiting the petitioner with any kind of disentitlement.

3. The petitioner has also assailed the order dated 23.09.2017 passed by the Inspector General of Bihar Sector of



the respondent force (appellate authority), whereby his appeal has been rejected.

4. The petitioner was enlisted as a Constable (General Duty) on 21.03.2017. The petitioner had obtained two days' leave on 05.04.2017 and was to return on 07.04.2017. The petitioner has overstayed leave and returned for joining his duty on 26.07.2017. The records reveal that much prior thereto on 18.05.2017, the petitioner had already been terminated from service by the impugned order.

5. The petitioner's counsel submits that he was ill and had been advised bed rest. In support of his contention, he has drawn the attention of the Court towards Annexure-3 series being some prescriptions and pathological reports. He submits that in view of advice of bed rest, the petitioner sent an email on 18.04.2017 requesting the authorities for leave of 2 months so as to enable him to recuperate before he could join. It is submission of the petitioner's counsel that in spite of his email dated 18.04.2017, the petitioner has been visited with the impugned order of termination one month thereafter, i.e., on 18.05.2017, which is unsustainable.

6. Learned counsel for the Union of India has drawn attention of the Court towards the specific averment made in



paragraph 8 of the counter-affidavit filed on behalf of the Union of India, which in so many words reiterates a fact which has been taken note of in the order of the appellate authority dated 23.09.2017 that petitioner's email seeking extension of leave was responded by the respondent authorities under letter dated 22.04.2017. The petitioner's application for extension of leave had been rejected and he had been given a last opportunity to join his duty without any delay.

7. The said fact is not denied or disputed by the petitioner, though he has filed a rejoinder.

8. The only ground raised by the learned counsel for the petitioner is regarding incapacity to join the duty based on the various prescriptions and pathological reports, which he had annexed. To such stand, the respondents have stated that if the petitioner was suffering with any kind of ailment then he should have availed of the treatment at the hospital facilities of the force in the adjoining district of Muzaffarpur since the petitioner's claims to be ill in the district of Hajipur.

9. The plea of petitioner's illness based on the documents also does not inspire any confidence, viewed keeping in background the stand taken by the respondents. The petitioner has annexed alleged certificates and pathological



reports showing that he has been examined at Patna on 06.04.2017, thereafter at Hajipur on 08.04.2017 and there are pathological reports showing his examination in the district of Samastipur on the same date, i.e., 08.04.2017. *Prima-facie* the documents annexed are unreliable based on the fact that it defies logic as to how the petitioner could have been examined at Hajipur on 08.04.2017 and at the same time undergone pathological tests on the same date in the district of Samastipur. It is also unbelievable that the petitioner was suffering from such a disease which incapacitated him from availing the treatment at the facilities of the respondent-force in the adjoining district of Muzaffarpur, since admittedly he has been moving from one place to other during the alleged period during which he claims to be ill.

10. The claim of the petitioner is, therefore, not considered by this Court to inspire any confidence so as to interfere with the order passed under the CCS (TS) Rules.

11. Another aspect of the matter is that the impugned order has been passed under Sub-rule (2) of Rule 5 of the CCS (TS) Rules, which applies to persons like the petitioner appointed on a temporary post, as is apparent from the petitioner's offer of appointment (Annexure-1 to the writ



petition) dated 25.02.2017.

12. The impugned order of termination is after complying with the requirement of Rule 5 of the CCS (TS) Rules. The same is evident from the order dated 18.05.2017 itself which declares the petitioner to be entitled to claim a sum equivalent to the amount of his pay plus allowance for the period of notice. The impugned order also does not cast any stigma on the petitioner. The reasons disclosed for invoking sub-rule (1) of Rule 5 of the CCS (TS) Rules has been stated in the counter affidavit.

13. After being enlisted in the Force on 21.03.2017, the petitioner proceeded on leave for two days on 05.04.2017, i.e., within a week of his joining. He thereafter has remained absent unauthorisedly by overstaying leave granted to him. The petitioner has thus been found to be undesirable for the Force, wherein order and discipline is paramount. Since the petitioner has not come back to join in spite of the repeated reminders, and rejection of his request for extension of leave, the authorities, in the opinion of this Court, has rightly invoked the CCS (TS) Rules for issuing the impugned order dated 18.05.2017.

14. This Court does not find any infirmity in the impugned order/s. The action of the respondents, in the opinion



of the Court, requires no interference.

15. The writ application is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

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