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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.25006 of 2015

and

M.P.No.1 of 2015

M.Chelladurai

...Petitioner

-Vs-

1.Union of India,
Rep. by its Secretary to Govt.,
Ministry of Home Affairs,
New Delhi.

2.The Director General,
C.R.P.F., CGO Complex,
Lodhi Road, New Delhi.

3.Deputy Inspector General of Police,
C.R.P.F., Avadi,
Chennai - 600 065.

4.The Commandant,
C.R.P.F., Avadi,
Chennai - 600 065.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 4th respondent in his Office Order No. P.III-30/15-GC-PEN, dated 27.07.2015, quash the same and to direct the respondents to take the petitioner into the strength of CRPF as Constable Bug with all monetary benefits.

For Petitioner : Mr.J.Lakshmi Narayanan

For Respondents : Mr.S.Muthusamy

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.



2. The petitioner herein had joined the Central Reserve Police Force as a Constable/Bugler on 19.04.2003. Based on a report of the Board of Medical Officers at the Composite Hospital, CRPF, Avadi, dated 06.04.2015, the petitioner was declared completely and permanently incapacitated for further service in the force. Consequently, through the impugned order dated 27.07.2015, he was invalidated out from service with effect from 28.07.2015. Challenging the said order, the present writ petition has been filed.

3. The impugned order dated 27.07.2015 does not make a reference that the petitioner was subjected before the DRB, before the order was passed. The learned counsel for the petitioner placed reliance on the Standing Order No.04/2011, dated 27.07.2011 issued by the Directorate General, CRFP, New Delhi and submitted that the Departmental Rehabilitation Board (DRB) is the competent authority to decide whether the member of the force, who is disabled due to psychiatric disease, can be rehabilitated within the force by assigning lighter duties or whether he can be declared as not fit for any kind of duty. The relevant clause of the Standing Order reads as follows:-

"2. The department has three categories of disabled personnel:-

(A) ...

(B) ...

(C) Those who are disabled due to psychiatric diseases.

5. The personnel with disability will appear before Departmental Rehabilitation Board (DRB) which will consist of the following sector level:-

- i) Chairman : IGP
- ii) Member : One DIGP
- iii) Member : One Commandant/2-I/C or DC
- iv) Member : One CMO (SG) *
- v) Member : One CMO/SMO

* Note:- (With Specialization in the nature of disability, if not available request be made to nearby sister organization or Civil hospital to co-opt such member)

6. This Board will subject the person concerned to critical examination with a view to determine his physical/mental capability, aptitude, job requirement etc. for assessing capability and health condition of the person, will recommend



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specifically that:-

i) Whether he/she can be rehabilitated within the Force by assigning the jobs mentioned in Para-7 and 8 below as per his/her physical and mental health condition.

OR

ii) the person is not fit for any kind of duty (specific reason & medical opinion) therefore recommended to be invalidated out.

7. After critical examination of the person and assessment of his/her suitability for the job, DRB will recommend any of the tasks for him/her as specified below:-

- a. Dak/Office runner
- b. Telephone Operator
- c. Attendants in R/Rooms, Welfare Centre, School Bus
- d. Sales person in Canteen, Co-operative, Flour Mills
- e. RTO at Railway Station
- f. Office jobz viz coy writer etc
- g. Mess Constable, Service Man
- h. Any other specified job considered suitable from time to time

9. DRB will also recommend the following in their final decision:-

- a) ...
- b) ...
- c) ...
- d) Those declared unfit on ground of psychiatric disease will be invalidated out immediately, irrespective of their fitness at the time of recruitment."

4. On an analysis of the aforesaid clauses in the Standing Order, when a personnel is found to have some disability, he should be subjected before the DRB and only in cases where the DRB finds that the personnel is not fit for any kind of duty, they can invoke clause 9(d), for the purpose of declaring such a personnel as unfit, on the ground of psychiatric disease. Apparently, this procedure, contemplated under the Standing Order No.04/2011, has not been followed by the respondents. Though the order seems to have been passed on the basis of the report of the Board of Medical Officers, the appropriate procedure to be adopted by the respondents, as per



their Standing Orders, would be to subject the petitioner before the DRB and in the absence of the same, the consequential order invalidating him from service, cannot be sustained. Nevertheless, if the respondents are granted liberty to assess the petitioner's disability by the DRB constituted under the Standing Order and thereafter take a decision, the ends of justice could be secured.

5. In the light of the above findings, the impugned order dated 27.07.2015 is quashed. Consequently, the second respondent shall permit the petitioner to appear before the Departmental Rehabilitation Board, within a period of 10 days from the date of receipt of a copy of this order and subject to the recommendation made by the Board, the second respondent shall either rehabilitate the petitioner within the force, by assigning him jobs mentioned under Clause 7 of the Standing Order No.04/2011 or invalidate him out of service, if the DRB recommends that he is not fit for any kind of duty. Such a recommendation by the DRB and the consequential decision to be taken by the second respondent, shall be completed within a period of three (3) months from the date of receipt of a copy of this order.

6. The Writ Petition stands allowed, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

hvk

To

1.The Secretary to Govt.,
Union of India,
Ministry of Home Affairs,
New Delhi.

2.The Director General,
C.R.P.F., CGO Complex,
Lodhi Road, New Delhi.



3. Deputy Inspector General of Police,
C.R.P.F., Avadi, Chennai - 600 065.

4. The Commandant,
C.R.P.F., Avadi, Chennai - 600 065.

+1cc to Mr.J.Lakshmi Narayanan, Advocate SR.No.28481
+2cc to Mr.S.Muthusamy, ACGSC, Advocate SR.No.28452

W.P.No.25006 of 2015
and
M.P.No.1 of 2015

AJB (CO)
GN(06/06/2022)