



WEB COPY



Order dated : 11.07.2022
Writ Petition No.7110 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Writ Petition No.7110 of 2015

E.Panneer Selvam

... Petitioner

Vs.

- 1.The Union of India,
represented by its
Secretary to Government,
Ministry of Home Affairs,
New Delhi.
- 2.The Director General,
Office of the Central Reserve Police Force (CRPF),
Head Office - CGO Complex,
Lodhi Road,
New Delhi - 110 003.
- 3.The Deputy Inspector General of Police (Adm.),
Office of the Inspector General of Police,
Group Centre, Southern Sector,
CRPF, Chandrayan Gutta,
Keshogiri, Hyderabad - 560 005.
Andhra Pradesh.
- 4.The Deputy Inspector General (DIGP),
The Office of the DIGP -GC CRPF,
Avadi, Chennai - 600 065.



Order dated : 11.07.2022
Writ Petition No.7110 of 2015

5.The Commandant (CO),
Head Quarters 19 BN,
RSP Trainees Hostel,
Sector 5, Rourkela,
Orissa.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the third respondent in his Order No.R.XIII-1/2014-Adm-7 dated 16.02.2015 confirming the order of the fifth respondent dated 17.01.2012 in his Office Order No.P.VIII-10/2011-19-EC-II and quash the same and to direct the respondents to take the petitioner as Constable in the strength of Central Reserve Police Force and pay all monetary benefits.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.V.Ashok Kumar
Central Government Standing Counsel

ORDER

The order of discharge issued by the third respondent in proceedings dated 16.02.2015 confirming the order of the fifth respondent dated 17.01.2012 is under challenge in the present writ petition.

2. The petitioner joined as Sweeper in the Central Reserve Police Force on 25.08.2008 and the qualification for the post of Sweeper and Constable was



Order dated : 11.07.2022
Writ Petition No.7110 of 2015

WEB COPY

eight standard pass. The petitioner states that at the time of his enlistment, a certificate was attached by the agent without his knowledge, which he came to know later that it was not genuine. The petitioner states that he studied in the Government Higher Secondary School, Manalurpettai, Villupuram District, and the original transfer certificate was issued on 19.11.2007, which was not produced wrongly without any intention. Thereafter, the petitioner was appointed as Constable. The fifth respondent, on 17.07.2010, issued a show cause notice to the petitioner calling for an explanation as to why action should not be initiated for producing false certificate. The petitioner submitted his reply and thereafter, a charge memorandum was issued in proceedings dated 31.08.2010. The petitioner submitted his explanation stating that he had studied in the R.C.Middle School, Manalurpettai and the same was verified by the fifth respondent with reference to the genuineness of the certificate. Thereafter, the said departmental disciplinary proceedings initiated were dropped. However, the petitioner was not permitted to work in the Battalion and therefore, he proceeded to his native place. Subsequently, the fifth respondent issued the impugned order in proceedings dated 17.01.2012. On expiry of one month notice, the petitioner was terminated from service with effect from 30.12.2011. The petitioner submitted a representation to the competent authority setting out



Order dated : 11.07.2022
Writ Petition No.7110 of 2015

the facts and circumstances, however, the competent authority rejected his representation on the ground that the petitioner has not brought out any new facts for the purpose of reconsidering the decision taken by the CRPF authorities.

3. Learned counsel appearing on behalf of the petitioner mainly contended that the petitioner was appointed on 25.08.2008 and as per Rule 16 of the Central Reserve Police Force Rules, the period of temporary appointment is for three years alone. The petitioner has completed three years from the date of his appointment and thus, the issuance of notice to discharge his services itself is untenable. Once the petitioner had completed three years of service, he has to be considered as permanent employee for all purposes. That apart, a charge memo was issued to the petitioner, which would normally issued to a permanent employee and the said charge memo was also dropped. Thus, the petitioner was construed as permanent employee by the authorities and thus, issuance of notice treating the petitioner as temporary employee is incorrect and is in violation of Rule 16 of the Central Reserve Police Force Rules.



Order dated : 11.07.2022
Writ Petition No.7110 of 2015

4. Learned Central Government Standing Counsel appearing on behalf of the respondents objected the said contention by stating that the petitioner submitted a fake educational certificate and a charge memo was issued. On verification, the authorities found that the certificate produced by the petitioner was a bogus one even during the second occasion. The facts in this regard are stated in paragraph Nos.4 and 5 of the counter filed by the fourth respondent, which read as follows:

"4. I humbly submit that contention of the petitioner is due to his confusion and ignorance to differentiate effect of Memorandum/Departmental action and termination. A Departmental Enquiry was initiated against the petitioner on the charge of securing Government job by producing fake education certificate vide Memorandum No.P.VIII.9/2010-19-EC-II dated 31/08/2010. With regard to the Memorandum, the petitioner vide his application dated 01/10/2010 had submitted a letter of R.C.Middle School, Mamallur, Villupuram stating that he had studied in St.Joseph's Middle School, Mamallur, which was later changed as R.C.Middle School, Mamallur. Further stated that he got admitted in the school on 04/06/1996 in class-VI and continued upto VIII Std for the academic session from 1996-97 to 1998-99 and provisionally qualified for promotion to IX Std. Hence, Commandant 19 Bn vide letter No.P.VIII-1/2009-19-EC.II dated 20/11/2010 had requested GC Avadi to re-verify and intimate the factual position, in turn, GC Avadi vide letter No.C.II.33/2010-SRC.3-19 dated 14/01/2011 had again requested the said school authority for its genuineness duly endorsing a copy of the letter to the Supdt. of Police, Villupuram. In reply to this, Head Master, R.C.Middle School vide letter dated 21/03/2011 has certified the genuineness of the certificate to GC Avadi. Accordingly, GC Avadi vide letter No.C.II.33/10-11-SRC-3/19 dated 28/03/2011 has conveyed the same to the Commandant - 19 Bn CRPF.

5. I humbly submit that based on the report submitted by GC Avadi vide letter dated 28/03/2011 Departmental Enquiry initiated



Order dated : 11.07.2022
Writ Petition No.7110 of 2015

against CT(SK) E.Paneer Selvam was dropped by Commandant 19 Bn vide Office Order No.P.VIII.9/2010-EC.II dated 19/04/2011. The Supdt of Police, Villupuram has forwarded a report vide their letter No.F.I./2883/6/2011 dated 26/08/2011 in response to GC CRPF Avadi letter/endorsement dated 14/01/2011 stating that 8th class pass certificate produced by CT(SK) E.Paneer Selvam is fake, as individual never studied in the so called school. Based on the above report, GC CRPF Avadi vide their letter No.V.I.06/2011-SRC.3/19 dated 20/09/2011 had directed Commandant 19 Bn for taking disciplinary action against aforesaid individual as he secured Government Service through illegal means by producing fake education certificate."

5. After submission of the second certificate by the petitioner issued by the Headmaster, the authorities have sent it for verification. The Superintendent of Police once again submitted a report that the second educational certificate submitted by the petitioner was also bogus. Therefore, the respondents have decided to invoke Rule 16 of the Central Reserve Police Force Rules.

6. Learned counsel appearing on behalf of the petitioner replied by stating that the petitioner has not submitted two educational certificates. In fact, he has submitted one educational certificate. Since the school in which he originally studied was closed, the records were maintained by the other school, from where he had obtained the second certificate and produced the same to the authorities.

7. This Court is of the considered opinion that an opportunity was given



Order dated : 11.07.2022
Writ Petition No.7110 of 2015

to the petitioner to prove his case. The departmental disciplinary proceedings were initiated to ascertain the genuineness of the educational certificate.

However, the petitioner submitted another educational certificate, which was also found to be false. Thereafter, the respondents have dropped the disciplinary proceedings and decided to invoke Rule 16 of the Central Reserve Police Force Rules. The conduct of the petitioner, in this regard, was also considered by the competent authorities for the purpose of invoking Rule 16 of the Central Reserve Police Force Rules.

8. Regarding the contentions of the petitioner, let us consider the scope of Rule 16 of the Central Reserved Police Force Rules, which reads as under:

"16. Period of service. - (a) All members of the Force shall be enrolled for a period of three years. During this period of engagement, they shall be liable to discharge at any time on one month's notice by the appointing authority. At the end of this period those not given substantive status shall be considered for quasi-permanency under the provision of the Central Civil Services (Temporary Service) Rules, 1965. Those not declared quasi-permanent under the said rules shall be continued as temporary Government employees unless they claim discharge as per Schedule to the Act. Those who are temporary shall be liable to discharge on one month's notice and those who are quasi-permanent shall be liable to discharge on three months' notice in accordance with the said rules, as amended from time to time."

9. As per the above rule, all the members of the Force shall be enrolled for a period of three years. However, during the period of engagement, they



Order dated : 11.07.2022
Writ Petition No.7110 of 2015

shall be liable to be discharged at any time on one month notice by the appointing authority. On completion of three years, the employee must be declared as quasi-permanent employee or a permanent employee. Once an employee is declared as permanent employee, then he gets the status as a permanent member of the CRPF. If he is treated as quasi-permanent employee under the Central Civil Services (Temporary Service) Rules, 1965, then, he is liable to be discharged from service on three months notice in accordance with the temporary service rules. As far as the other employees, who are all continuing as temporary employees, are liable to be terminated on one month notice under Rule 16 of the Central Reserve Police Force Rules.

10. In the case of the petitioner, he was neither declared as quasi-permanent employee nor as permanent employee. Thus, even on completion of three years of service, he was continuing as temporary employee. One reason for non-declaration of the petitioner as permanent employee was that a charge memorandum was issued against him during the relevant point of time and he was facing departmental disciplinary proceedings and therefore, he was not declared either as quasi-permanent employee or permanent employee and he was continuing as temporary employee. Since the petitioner has produced the



Order dated : 11.07.2022
Writ Petition No.7110 of 2015

bogus educational certificate for the second time, the authorities have thought it fit to invoke Rule 16 of the Central Reserve Police Force Rules for the purpose of discharging the petitioner from service.

11. Once an employee is continuing as a temporary employee then Rule 16 of the Central Reserve Police Force Rules would be applicable and such employee is liable to be terminated on one month notice. Therefore, this Court does not find any infirmity or perversity in the action taken by the respondents against the petitioner. Hence, this writ petition is devoid of merits.

Accordingly, this writ petition stands dismissed. No costs.

11.07.2022

Index : Yes
Speaking order
gm

S.M.SUBRAMANIAM., J

gm

To



Order dated : 11.07.2022
Writ Petition No.7110 of 2015

1. The Secretary to Government,
Ministry of Home Affairs,
New Delhi.
2. The Director General,
Office of the Central Reserve Police Force (CRPF),
Head Office - CGO Complex,
Lodhi Road,
New Delhi - 110 003.
3. The Deputy Inspector General of Police (Adm.),
Office of the Inspector General of Police,
Group Centre, Southern Sector,
CRPF, Chandrayan Gutta,
Keshogiri, Hyderabad - 560 005.
Andhra Pradesh.
4. The Deputy Inspector General (DIGP),
The Office of the DIGP -GC CRPF,
Avadi, Chennai - 600 065.
5. The Commandant (CO),
Head Quarters 19 BN,
RSP Trainees Hostel,
Sector 5, Rourkela,
Orissa.

Writ Petition No.7110 of 2015

11.07.2022