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Writ Petition No.14422 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Writ Petition No.14422 of 2019

and

W.M.P.No.14437 of 2019

K.Paramasivan

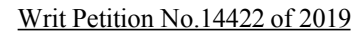
... Petitioner

Vs.

- 1.The Director General,
Central Reserve Police Force (CRPF),
Block No.1, CGO Complex,
Lodhi Road, New Delhi - 110 003.
- 2.The Inspector General of Police,
Karnataka-Kerala Sector (KKS Sector),
Central Reserve Police Force (CRPF),
Group Centre, Doddaballapur Road,
Yelahanka, Bangalore - 560 064.
- 3.The Commandant,
77 Battalion Headquarters,
Central Reserve Police Force (CRPF),
Special Jail Campus,
Poonamallee, Chennai - 600 056.

... 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 impugned notice of the third respondent in No.P.III-1/2019-77-EC-IV dated 23.04.2019 and quash the said notice and direct the respondents to



For Petitioners : Mr.P.Mohanraj

For Respondents : Mr.S.Muthusamy,
Central Government Standing Counsel

2. The petitioner was appointed as constable/driver in 77 Battalion Central Reserve Police Force stationed at Poonamallee, Chennai. He was appointed on 12.02.1999. While the petitioner was engaged in Fireman Lifting physical training, he suffered upper back ache and on diagnosis, it was found that the petitioner was having Coronary Artery Disease (CAD) with ejection fraction at 47%. The petitioner was under continuous medical treatment and during December'2014, he was posted to the present station, namely, 77 Battalion, Poonamallee, Chennai. The petitioner was medically categorised as P3 (T-24) from 08.09.2010 till 24.04.2012. He was then categorized as P-3 (Permanent) and continued as such till 01.03.2015. On 02.03.2015, the



petitioner was given P-5 (permanent) shape categorization and declared unfit for service as combatant in armed force and was recommended for Departmental Rehabilitation Board (DRB).

3. The petitioner appeared before the Departmental Rehabilitation Board (DRB) held at Hyderabad and he was directed to continue in service. Thereafter, the petitioner appeared before the Departmental Rehabilitation Board (DRB) held at Bengaluru during November 2017. The petitioner conveyed his willingness to continue in service. During June 2018, the petitioner was directed to appear for medical examination (AME) - 2019 on 04.01.2019 and he was directed to continue medications.

4. On 23.04.2019, the Commandant, 77 Battalion Headquarters, Central Reserve Police Force, Chennai, issued notice for invalidation out from service in proceedings dated 23.04.2019. It is stated that the petitioner was awarded with 61% permanent physical disability by the Medical Board constituted by the Central Reserve Police Force and the petitioner was called upon to submit his representation. The petitioner filed the present writ petition challenging the said notice.



5. Learned counsel for the petitioner mainly contended that the petitioner was declared not fit to perform the combatant duties as a member of the Force and he was already allotted with lighter duties by the competent authorities from the year 2010 onwards. The petitioner as of now is working at Pune and performing lighter duties as allotted by the Competent Authorities. Learned counsel states that the petitioner is allowed to perform lighter duties for the past about 12 years and he is performing to the satisfaction of the superiors and therefore, he may be allowed to continue in the post in which he is accommodated for the purpose of performing lighter duties.

6. Learned Central Government Standing Counsel appearing for the respondents objected the said contention by stating that the authorities have not received any such permission to continue the services of the petitioner for the purpose of posting him in lighter duties. However, the fact regarding the continuance of the petitioner in lighter posts for the past 12 years is not disputed by the respondents.

7. The fact remains that the petitioner has challenged the very notice itself and no final decision has been taken by the Competent Authorities. The petitioner, instead of submitting his explanations to the notice, has filed the



present writ petition challenging the same. No doubt, the authorities are competent to evaluate the fitness of employees, who are working in Central Reserve Police Force. The medical fitness being an important factor in uniformed services, the said system, at no circumstances, be compromised nor the High Court can exercise its judicial power and direct the authorities to engage a person, who is otherwise not fit to perform duties and responsibilities attached to the Force. A balanced approach is required in these circumstances. The petitioner was allowed to perform lighter duties for the past 12 years by the Competent Authorities. While so, further continuation of the petitioner's services is to be assessed by the Competent Authorities by evaluating his medical condition, more so, the petitioner has filed the present petition only challenging the notice and the authorities have not taken any final decision in the case of the petitioner.

8. Learned counsel for the petitioner reiterated that as per the Standing Orders, 27 posts are earmarked for the persons, who are not in a position to do combatant duties in the Force. It is contended that the petitioner may be accommodated in anyone of those 27 posts for the purpose of performing lighter duties, which he is capable of performing.



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9. All these aspects have to be assessed by the Competent Authorities by evaluating the medical fitness of the petitioner through the competent Medical Board or otherwise. Court cannot express any opinion in respect of medical fitness of a person in uniformed services. Thus, the respondents shall evaluate the medical condition of the petitioner through the competent Medical Board and take a final decision. However, the continuation of the petitioner's service need not be interfered with since he has been allowed to continue in service and lighter duties were allotted for the past about 12 years. Hence, the respondents shall take effective steps to refer the case of the petitioner to the Medical Rehabilitation Board and thereafter, initiate all appropriate action in the manner known to law. Until final decision is taken in this regard, the petitioner may be allowed to continue in service.

With these observations, this Writ Petition stands disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

27.10.2022

Index : Yes
Speaking order
gm



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S.M.SUBRAMANIAM., J

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