

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2014

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.16084 of 2012

and M.P.No.1 of 2012

P.Elangovan

... Petitioner

Vs.

1. The Principal
CTC-II,
Central Reserve Police Force,
Coimbatore
2. The Deputy Director of Communications,
Central Reserve Police Force,
C.G.O.Complex,
Lodhi Road, New Delhi,
3. The Deputy Inspector General,
Signal Range, Central Reserve Police
Force, HC Block, Sector-III,
Salt Lake, Kolkatta-700 105,
West Bengal
4. The Commandant,
2, Signal Battallion,
Central Reserve Police Force,
Hyderabad

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the Order No.P.VIII-I/2010-Ec.3(PE) dated 9.12.2010 passed by the 3rd respondent confirming the Order No.P.VIII-5/2001-Ec.I dated 31.05.2001 passed by the 4th respondent, quash the same and to direct the respondents to take the petitioner into the strength of CRPF with all monetary benefits as Head Constable/Radio Operator.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.Vinayagamurthy, CGSPC

ORDER

The petitioner herein was appointed as a constable in Central Reserve Police Force on 9.4.1988. He was promoted as Head Constable

in the year 1999. The petitioner proceeded on 45 days LKD with effect from 20.3.2000 to 3.5.2000. However, he failed to resume duty with effect from 4.5.2000. A telegram was received from him on 6.6.2000 with a request for one month leave due to his self treatment. The request was not acceded to and he was directed to resume duty forthwith. Without complying the same, he sent another telegram on 8.6.2000 seeking extension of one month leave. There was exchange of letters from the respondents and telegrams from the petitioner. In the letters the petitioner was asked to report for duty and in the telegrams he sought for extension of leave. As the petitioner did not rejoin, a non-bailable warrant was obtained in pursuant to the complaint given. In pursuant to his joining, it was withdrawn. Thereafter departmental proceedings have been initiated and on enquiry he was dismissed from service. Challenging the same the present writ petition has been filed.

2. Learned counsel for the petitioner submitted that the petitioner was making requests for grant of leave from time to time. He has also produced medical certificates from the Government Doctor stating that he was ill for the relevant period. The said documents have not been taken into consideration. The appellate authority has given a finding that the documents produced by the petitioner are not genuine and without any basis. Therefore, the learned counsel submitted that even though there may be some laxity on the part of the petitioner, considering the service rendered by the petitioner and taking note of the medical certificates produced the respondents will have to be directed to consider the imposition of a lesser punishment.

3. Per contra, learned counsel appearing for respondents submitted that considering the sensitivity of the post the petitioner was holding, the petitioner was duly imposed punishment. The petitioner was given sufficient opportunity before the Enquiry Officer and he did not produce any medical certificate while seeking extension of time. He relied upon the evidence produced by the R.M.P. Doctor and the medical certificate merely states about the treatment was taken for ten months. Apart from the other letters, no other document is produced regarding the nature of treatment and the evidence such as medical prescription and bills. He was absent for 291 days, which is a long period. Therefore, no interference is required. There is a laxity on the part of the petitioner. When the petitioner went on leave it is for him to apply for extension in the prescribed manner. The respondents did not send the applications along with the medical certificates. Only during enquiry the petitioner produced letters to the effect that he was ill for the relevant period. Therefore, the attitude of the petitioner cannot be condoned.

4. However, it is seen that the petitioner has put in more than ten years of service. The petitioner did produce medical certificates to show that he was ill. There is no basis for totally rejecting the said documents. In other words, as rightly submitted by the learned counsel for the petitioner, the respondents could have imposed lesser

punishment. Considering the same and particularly by taking note of the medical certificates produced from the Government Doctor this Court is of the view that the order impugned is liable to be set aside so as to enable the respondents to consider imposition of lesser punishment.

5. Accordingly, the writ petitions are ordered by setting aside the orders dated 9.12.2010 passed by the 3rd respondent and the Order dated 31.5.2011 passed by the 4th respondent and consequently, the 3rd respondent is directed to consider the imposition of lesser punishment to the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Deputy Registrar
Dated:16.12.14

True Copy

Sub Assistant Registrar

To

1. The Principal
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Coimbatore
2. The Deputy Director of Communications,
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cnr(co)
krd 17/12

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