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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2022

Coram

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Writ Petition No.1616 of 2014

A.P.Sebastian

.. Petitioner

Vs.

1. The Union of India,  
Represented by its Secretary to the Government,  
Ministry of Home Affairs,  
New Delhi.
2. The Director General of Police,  
Central Reserve Police Force,  
CGO Complex, Lodhi Road,  
New Delhi - 03.
3. The Inspector General of Police,  
Central Reserve Police Force,  
M & N Sector, Lunging (PO)  
Imphal, Manipur - 795 113.
4. The Deputy Inspector General of Police,  
Central Reserve Police Force, Imphal Range,  
M & N Sector, Lunging (PO),  
Imphal, Manipur - 795 113.
5. The Commandant,  
165 Bn, CRPF,  
Dibrugarh, Assam.

.. Respondents

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 5<sup>th</sup> respondent dated 12.09.2007 in his Office Order No.P.VIII.1/2007.165.EC-II and quash the same and direct the respondents to take the petitioner into the strength of Central Reserve Police Force as Head Constable by passing order on the representation dated 02.09.2008 submitted to the first respondent, with all monetary benefits.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.V.Chandrasekaran  
Standing Panel Counsel



## ORDER

The punishment of compulsory retirement imposed on the writ petitioner is under challenge in the present writ petition.

2. The writ petitioner was joined as constable in CRPF on 06.07.1985 at Bhuvaneswar, Orissa. A charge memorandum was issued against the writ petitioner framing two articles of charges, which reads as under:

### "ARTICLE -I

That the said No.850834526 HC/GD A.P.Sebastian of E Coy, 165 Bn CRPF while functioning as Head Constable (GD) committed an act of misconduct/misbehavior in his capacity as a member of the Force under Section 11(1) of CRPF Act 1949, in that he on 13/11/2006 went out of the campus of E/165 Bn Mancutta without permission of the competent authority which is prejudicial to good order and discipline of the Force and thereby committed an offence punishable under Section 11(1) of CRPF Act, 1949.

### ARTICLE - II

That the said No.850834526 HC/GD A.P.Sebastian of E coy, 165 Bn CRPF while functioning as Head Constable (GD) committed an act of misconduct/misbehavior in his capacity as a member of the Force under Section 11(1) of CRPF Act, 1949, in that he associated himself with a private firm named Gemini Home Needs, Naliapool, A.T.Road, Dibrugarh which collected money from public on the promise of providing home need products at half price and swindled away money of the public. No.850834526 HC/GD A.P.Sebastian of E Coy, 165 Bn CRPF thereby committed an offence punishable under Section 11 (1) of CRPF Act, 1949."

3. The petitioner submitted his written statement of defence and participated in the enquiry proceedings. Admittedly, a criminal case was registered against the writ petitioner on the file of the Chief Judicial Magistrate, Dibrugarh in G.R.No.1918 of 2006 under Section 420 IPC.

4. The learned counsel for the petitioner mainly contended that the criminal case ended with an order of acquittal as the Investigation Officer seized one order from the complainant but did not obtain the signature of the complainant in the seizure list. The evidence of P.W.1 and P.W.2 frustrated the prosecution



story and there was no material to link up the accused person with the alleged incident of cheating and accordingly an order of acquittal was issued.

5. Relying on the said order, the learned counsel for the petitioner reiterated that a false criminal case has been foisted against the writ petitioner and the said case ended with an order of acquittal and therefore, the punishment of compulsory retirement is to be set aside.

6. In respect of the other misconduct set out in Article I, the learned counsel for the petitioner contented that with the oral permission of the higher official, the petitioner went out from the campus and he has not committed any such misconduct.

7. The learned counsel appearing on behalf the respondents objected the said contention by stating that the petitioner, on 13.11.2006 at around 7' o clock, being the Mess Commander went to the market to purchase vegetables and returned to Company at 9.30 a.m. On that day, at 11:30 a.m., the petitioner again went out of campus without informing the seniors which act constitutes misconduct. On 13.11.2006, Shri. A.B.Gowade, Head Constable, on General Duty, came to know about the petitioner's leaving the camp without permission only after he got information about arrest of the petitioner by the Civil Police at Dibrugarh on 13.11.2006. Immediately, Shri.A.B.Gowade informed the matter to the Company Havildar Major. Citing the above incidents, the learned counsel for the respondents has stated that the Departmental Disciplinary proceedings were conducted based on the charges and the absence of the writ petitioner in the campus was established. Thus, the first Article of charge was held proved.

8. In respect of the second charge though the criminal case ended with an order of acquittal, the same will not impact the departmental disciplinary proceedings, which was conducted independently based on the charges framed against the writ petitioner. Admittedly, the petitioner had involved in a criminal case and he was acquitted based on certain technical grounds. Thus, the punishment of compulsory retirement is in commensuration with the gravity of the charges proved.

9. This Court is of the considered opinion that the petitioner was holding a responsible position of Mess Commander in CRPF. In disciplined uniform services, discipline in performing the duties at no circumstances be compromised. In the present case, the allegation against the writ petitioner was that he left the campus during the duty hours without obtaining prior permission from the Competent Authority. Further, it reveals that after going out from the premises, the petitioner



was arrested by the Civil Police at Dibrugarh on 13.11.2006. In view of the criminal complaint lodged against him, he was arrested and remanded to judicial custody. Though he was acquitted in the criminal case, the Department has decided to conduct disciplinary proceedings and it is needless to state that the Departmental disciplinary proceedings and the criminal proceedings are distinct and different.

10. To convict a person under the criminal law, high standard of proof or evidence is required. However, no such strict proof is required for the purpose of punishing an employee under the Tamil Nadu Civil Services (Discipline and Appeal) Rules. Even preponderance of probabilities are sufficient to punish an employee under Tamil Nadu Civil Services (Discipline and Appeal) Rules. In the present case, the petitioner is working in a disciplined uniform service (CRPF) and there cannot be any compromise on discipline. The allegation against the writ petitioner was serious in nature as he abandoned the duty without prior permission of the Authorities Competent. He has involved in a criminal case also, though he was acquitted, the Authorities conducted an enquiry and found that the petitioner is guilty of the allegations as far as the Articles of charges are concerned.

11. This being the facts and circumstances of the case, this Court is of the considered opinion that the punishment imposed cannot be held to be disproportionate or otherwise and thus, the petitioner has failed to establish any acceptable grounds for the purpose of interfering with the orders of punishment.

Accordingly, this writ petition stands dismissed. No costs.

Sd/-  
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to the Government,  
Ministry of Home Affairs,  
New Delhi.



2. The Director General of Police,  
Central Reserve Police Force,  
CGO Complex, Lodhi Road,  
New Delhi - 03.

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3. The Inspector General of Police,  
Central Reserve Police Force,  
M & N Sector, Lunging (PO)  
Imphal, Manipur - 795 113.

4. The Deputy Inspector General of Police,  
Central Reserve Police Force, Imphal Range,  
M & N Sector, Lunging (PO),  
Imphal, Manipur - 795 113.

5. The Commandant,  
165 Bn, CRPF,  
Dibrugarh, Assam.

+1cc to Mr.V.Chandrasekaran, Advocate, S.R.No.32373

+1cc to Mr.A.S.Mujibur Rahman, Advocate, S.R.No.32752

Writ Petition No.1616 of 2014

MT (CO)  
UMA (20/06/2022)