



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.2987 of 2015

Jackson Raj

... Petitioner

vs.

1.The Union of India,
represented by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.

2.The Director General,
Central Reserve Police Force,
CGO Complex,
Lodhi Road, New Delhi -3.

3.The Deputy Inspector of Police,
Group Centre,
Central Reserve Police Force,
Avadi, Chennai -600 065.

4.The Commandant,
18 Bn, Central Reserve Police Force,
Kulgam, C/o.56 APO.

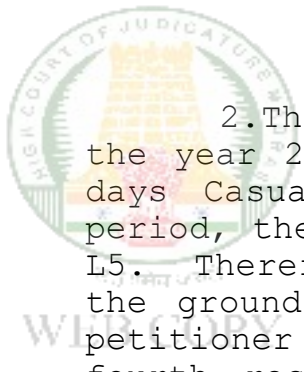
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the fourth respondent dated 09.05.2006 in his Office Order No.P.VIII.2/06-EC.2 communicated by the fourth respondent on 01.03.2014 in his Letter No.M.V-11/2014-RK and to quash the same and to direct the respondents to take the petitioner into the strength of Central Reserve Police Force as Constable and pay all monetary benefits.

For Petitioner : Mr.K.Vadivelu
for Mr.A.S.Mujibur Rahman
For Respondents : G. Rajaraman, Central Government
Senior Counsel

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the fourth respondent dated 09.05.2006 in his Office Order No.P.VIII.2/06-EC.2 communicated by the fourth respondent on 01.03.2014 in his Letter No.M.V-11/2014-RK and to direct the respondents to take the petitioner into the strength of Central Reserve Police Force as Constable and pay all monetary benefits.

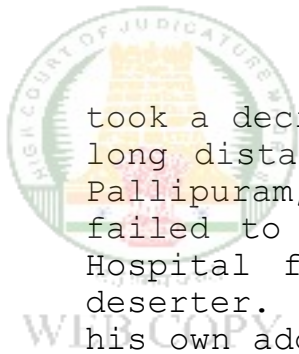


2.The petitioner joined the Central Reserve Police Force in the year 2001. While he was serving in Kashmir, he was granted 15 days Casual Leave from 10.06.2005 to 27.06.2005. During leave period, the petitioner suffered Mincro Lumber Disease problem L4 and L5. Therefore, he submitted a letter seeking extension of leave on the ground of inability to report, through register post and the petitioner has also responded to the call of notice sent by the fourth respondent. In spite of the same, the respondents have declared the petitioner as deserter from CRPF with effect from 28.06.2005, vide letter, dated 11.01.2006. Thereafter, a charge memo, dated 20.01.2006 was issued. The charge against the petitioner was that he continued to remain absent from duty and hence disciplinary proceedings were initiated and passed an order with a punishment of removal from service.

3. The petitioner contention is that he had mental health issues and he was admitted in hospital by his family members and he was treated for seven years. Thereafter, the petitioner submitted a representation, dated 11.02.2014 to the Central Public Information Officer with the request to furnish the xerox copies of all the papers pertaining to the punishment awarded under Rule 27 of CRPF Rules. The Central Public Information Officer served the final order, dated 09.05.2006. Thereafter, the petitioner preferred an appeal to the Appellate authority with a request to furnish the entire papers regarding the disciplinary proceedings. The Appellate authority has not furnished any copies till date. Aggrieved over the punishment order, the petitioner has filed this Writ Petition.

4.The respondents have filed a counter affidavit stating that the extension of leave was declined and the petitioner was directed to rejoin duty. But the petitioner has not joined the duty in spite of the direction. The request of extension of leave was also submitted only fearing that he would be arrested if warrant was issued against him. The petitioner has also failed to comply with the direction to report to GC Hospital, Pallipuram, Kerala for his medical examination. Thereafter, the Commandant-18 had ordered to enquire the circumstances under which the petitioner was over staying leave with effect from 28.06.2005. Based on this enquiry report, the petitioner was declared deserter with effect from 28.06.2005.

5.The contention of the respondents that the petitioner is a mental patient and remaining under treatment for seven years is a fabricated story. After the issue of warrant of arrest, the petitioner with an apprehension that he would be arrested has submitted two applications, dated 08.09.2005 and 18.10.2005, requesting for extension of leave on the ground of his illness. Thereafter the respondents issued a direction, directing him to rejoin duty with all medical documents and then another option was granted to him. The petitioner replied that he was not in the



took a decision that if the petitioner was not able to travel such a long distance, he was directed to appear before GC Hospital, CRPF, Pallipuram, Kerala for medical examination. But, the petitioner failed to report to duty and also he failed to appear before GC Hospital for medical examination. Therefore, he was declared as deserter. The memorandum of charges, dated 20.01.2006, was sent to his own address to submit a written statement within 10 days and the petitioner has received it on 28.01.2006, but, he has not submitted any explanation to the charges. Therefore, these charges were held proved. The respondents submitted that the writ petition is devoid of merits and therefore prayed to dismiss the Writ Petition.

6. Heard Mr. K. Vadivelu, learned Counsel appearing for the petitioner and the Learned Central Government Senior Counsel Mr. G. Rajaraman and perused the materials on record.

7. It is seen from the materials placed before this Court that the petitioner had received the charge memo, but, he has not submitted any reply. The petitioner also claims that he had mental health issues and he is having all medical records and he could not submit it in time. Therefore, this Court deems it fit to set aside the punishment order with a direction to conduct an enquiry after giving opportunity to the petitioner.

8. The petitioner is directed to submit his explanation and the respondents are directed to conduct an enquiry after giving adequate opportunity and thereafter, pass an order within a period of four months from the date of receipt of a copy of this order.

9. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.



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+1 CC to M/s.A.S.MUJIBUR RAHMAN, Advocate (SR-1625[F]
dated 12/01/2022)

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CK(CO)
GC(16.02.2022) 4P 6C