



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2022

CORAM:

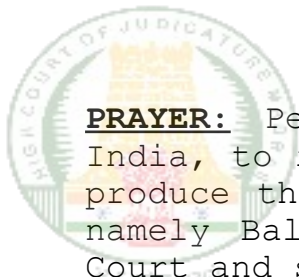
**THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

H.C.P. (MD) No.1777 of 2021

B.Vanitha ... Petitioner

-vs-

1. The Union of India,
Rep. by the Principal Secretary,
Home Department, Jaisalmer House,
Mansingh Road, New Delhi.
 2. The State of Tamil Nadu,
Rep. by the Principal Secretary,
Home Department, Secretariat,
St.George Fort, Chennai.
 3. The Director General,
Central Reserve Police Force,
Block No.1, CGO Complex,
Lothi Road, New Delhi-110 003.
 4. The Commandant,
02 BN - CRPF,
Sabri Nagar, Sukma,
Sukma District, Chhattisgarh.
 5. The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram District.
 6. The Deputy Superintendent of Police,
Mudhukulathur Police Station,
Mudhukulathur, Ramanathapuram District.
 7. The Inspector of Police,
Peraiyur Police Station,
Mudhukulathur Taluk,
Ramanathapuram District.
- ... Respondents



PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents to produce the body or person of the petitioner's husband, the detenu namely Balamurugan, son of Subramani, aged 33 years, before this Court and set him at liberty.

WEB COPY

For Petitioner : Mr.C.Arulvadivel @ Sekar

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor
for R2, R5 to R7
Ms.L.Victoria Gowri,
ASGI for R1, R3 & R4

O R D E R

[Made by P.N.PRAKASH, J.]

This habeas corpus petition has been filed seeking to direct the respondents to produce the body or person of the petitioner's husband viz., Balamurugan, aged about 33 years, before this Court and set him at liberty.

2. It is the case of the petitioner that her husband Balamurugan was working as a Driver in the CRPF and was posted in Sukma area in Chhattisgarh State. According to the petitioner, her husband availed leave and came home on 07.10.2021 and thereafter he left for Sukma after which, his whereabouts are not known. On these allegations, the petitioner has filed the present habeas corpus petition against the respondents herein.

3. On notice, Mr.M.Dhinakaran, Deputy Inspector General of Police, Group CRPF Avadi Chennai, has filed a counter-affidavit dated 22.01.2022 wherein it is stated as follows:-

"6. It is respectfully submitted that, No. 155030096 Constable/DVR S. Balamurugan (hereinafter called Petitioner's husband) was transferred from 19 Bn, CRPF, Odisha to 02 Bn, CRPF, Sukma, Chhattisgarh vide IGP, Southern Sector, CRPF, Hyderabad signal No. T.IX-10/2021-SS-Adm-11 dated 18/09/2021. Accordingly, Petitioner's husband was relieved by 19 Bn on 28/09/2021(AN) and reported at 2nd BN CRPF on 10/10/2021. On his reporting at 2nd Bn, CRPF, he was kept under mandatory quarantine due to Covid-19 at 2nd Bn, CRPF HQr, Distt.- Sukma, (CG). While petitioner's husband was under quarantine, he deserted unauthorizedly from Quarantine centre on 17/10/2021 at morning hours. Immediately, 2nd Bn, CRPP detailed a party to carry out search at Sukma market, Bus stand and nearby areas, but he could not be traced out.



Compliant was then lodged at P.S. Sukma, Chattisgarh on same day. Thereafter, a Warrant of Arrest has also been issued for his apprehension addressed to the Superintendent of Police, Distt.- Ramanathapuram. (TN) vide commandant 2nd Bn, CRPF letter No. W.II-10/2021-02-EC-II dated 20/10/2021.

7. It is respectfully submit that, desertion from Force is more heinous offence under section 9(f) of CRPF Act' 1949 and can be awarded punishment of removal from service under section 11(1) of CRPF Act' 1949 after observing due disciplinary procedure. 2nd Bn, CRPF is constantly in touch with Civil Police to find out his location / whereabouts. Further, all Sukma OPS Range units as well as Tamil Nadu based units have been requested to direct their Intelligence branch personnel to approach nearby P.S. & area to find petitioner's husband location / whereabouts and if any lead then, informed to 2nd Bn, CRPF, vide office letter No. D.III-1/2021-02-EC-II dated 30/11/2021 & 06/12/2021 respectively. Further, all Tamil Nadu based units have also been informed and a special representative from 2nd Bn, CRPF unit had also been sent to liaise with Tamil Nadu based units to find him whereabouts. A Deputy Commandant has also been detailed only to liaise with investigating officer of Police to expedite the investigation process."

4. On 20.04.2022, this Court has passed the following order:-

"The Police in-charge, Kotwali City, District of Sukma, has filed a report stating that the missing person's mobile phone was found near CRPF Camp and Sukma Bazaar area. The cover of the mobile phone was found on the banks of Shabari river. It is also stated that the police are taking steps to trace the missing person, who was working as a Constable with the CRPF.

2.While taking on file the said report, we direct the CRPF in coordination with the local police to find out any unidentified body was found in the area and make a report by 06.06.2022.

3.Post on 06.06.2022."

5. Today when the matter is taken up for hearing, the learned Assistant Solicitor General of India submitted a report dated 01.05.2022 given by the Officer in Charge of Sukma Police Station, wherein, it is stated as under:-

"In compliance of letter under reference, this is



to state that on 17.10.2021, an information was given by your letter no. D-Five-1/2021-02 dated 17.10.2021 that Force No. 155030096 C/Driver S.Balmurugan has been ran away from quarantine centre situated in Head Office 02nd Line Central Reserve Police Force Shabari Nagar Sukama (C. G.), in respect of which complaint has been lodged in Police Station City Kotwali of Rocha Sanha 18 on 17.10.2021 at 12.:30 hrs.

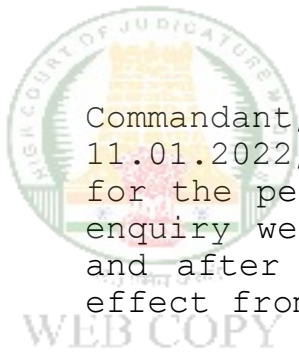
On receiving complaint application by your letter no. D-Five-1/2021-Edudate-02 BATA dated 23.10.2021 regarding missing of above employee, a Missing Person No. 20/2021 is registered in connection to missing of above employee on Sanha No. 24 on 24.10.2021 at 16:05 hrs. and investigation thereof has been undertaken for tracing the above employee.

In the matter of investigation, informer's statement has been recorded and immediately made radio message to all district of bastar range for tracing above employee and letter was issued to DRCB Sukama instructing to issue advertisement in district for tracing missing person S.Balamurugan, in respect of which, office of the Superintendent of Police District Sukama by its letter No. S. P./Sukama/DCB/267/2021 dated 26.10.2021 published advertisement on 26.10.2021 and informed in that regard to entire Superintendent of Police Chattisgarh, Superintendent of Police Malakangiri Orisa, CID Head Quarter of Police, Raipur with Inspector General of Police bastar range.

The efforts for tracing the missing employee is repeatedly carried out since 10/07/2021. Yet not obtained any dead body of deceased person in shore surrounding area of Shabari river of Sukama and nearby Police Station area. For the purpose of investigation of missing person, in compliance of the Superintendent of Police District Chattisgarh's letter no./S. P./Sukama/DCB./154/2022 dated, the direction issued to Director of Television Centre Shankar Nagar Raipur Chattisgarh to broadcast on television and also to Dy. Director General of Police (AAV.) Police Head Quarter Atal Nagar Raipur with entire Director General of Police for investigation and tracing of missing person.

Every efforts are being made for tracing the above missing employee. Investigation is ongoing."

6. Thus, from the above it is clear that the petitioner's husband is not in the illegal detention of the respondents herein for the issuance of writ of habeas corpus. In fact, the respondents have been taking earnest steps to trace the whereabouts of the petitioner's husband, but to no avail. That apart, the Office of the



Commandant, 2nd Bn, CRPF has passed a detailed order dated 11.01.2022, a copy of which was already furnished to learned counsel for the petitioner, wherein, it is stated clearly that the Court of enquiry went into the act of desertion by the petitioner's husband and after due enquiry, he has been declared as a 'deserter' with effect from 17.10.2021.

7. Recording the same, this habeas corpus petition is closed. As and when the fourth respondent receives any information about the whereabouts of the petitioner's husband, the same shall be intimated to her forthwith.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:

1. The Principal Secretary,
Union of India,
Home Department, Jaisalmer House,
Mansingh Road, New Delhi.
2. The State of Tamil Nadu,
Rep. by the Principal Secretary,
Home Department, Secretariat,
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Ramanathapuram District.
6. The Deputy Superintendent of Police,
Mudhukulathur Police Station,
Mudhukulathur, Ramanathapuram District.



7. The Inspector of Police,
Peraiyur Police Station,
Mudhukulathur Taluk,
Ramanathapuram District.

8. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.ARUL VADIVEL @ SEKAR, Advocate (SR-24352[F] dated
07/06/2022)

H.C.P. (MD) No.1777 of 2021
06.06.2022

_RD(14.06.2022) 6P 10C