

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19721 of 2014

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Rajendra Kumar Mishra S/o Late Sukhdeo Mishra Resident of Village -
Dawan, P.S. Jagdispur, District - Bhojpur Bihar

... .. Petitioner/s

Versus

1. The Union Of India through Director General, C.R.P.F. Block 1, Kendriya Karyalaya Parishar, Lodhi road, New Delhi
2. The Inspector General, Special C.R.P.F. Old Secretariate, Dehi - 110054
3. The Inspector General, Bihar Sector C.R.P.F., Patna, Bihar
4. The Deputy Inspector General, Group Centre, C.R.P.F., New Delhi - 11 - 72
5. The Deputy Inspector General, C.R.P.F., Group Centre Mokama Ghat, Bihar
6. The Commandant, 47 C.R.P.F., Koelawar, Ara, Bihar
7. The Commandant, 47 C.R.P.F., Jamui Road, Assam

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Vijay Kumar Mishra, Advocate
For the Respondent/s	:	Mr.Manoj Kr. Singh, CGC
	:	Mr. Ankit Kr. Singh, JC

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 31-08-2023

1. The present petition has been filed seeking the following relief :-

“(i) For issuance of an appropriate writ, Order/orders, direction/ directions in the nature of mandamus or other appropriate writ/writs for commanding the Respondents for making payment of salary for the period of 375 days w.e.f. 21.12.1988 to 31.12.1989 to the petitioner when he was in service and further be pleased to set aside the letter dated 1 February, 1988 (Annexure-5) in the nature of certiorari whereby and



whereunder Authority has without considering critical situation and real position of the petitioner sanction the leave in leave without pay (L.W.P.) However, senior authority has treated the absent period as on duty for all purposes through Annexure 8 dated 07.09.1999. “

2. The learned counsel appearing for the respondents, by referring to the counter affidavit filed in the present case, has submitted that while the petitioner was appointed in 75 B.N. C.R.P.F., he was on 30 days earned leave i.e. from 21.11.1998 to 20.12.1988, however, he overstayed his leave from 21.12.1988 to 30.12.1989 i.e. for a total period of 375 days, however the same was regularized as Leave Without Pay vide order dated 01.02.1998 and later on, the said period was amended and the period starting from 21.12.1988 to 29.12.1989 was regularized as leave without pay, thus the un-authorized absence period starting from 21.12.1988 to 29.12.1989 was regularized as E.O.L. under **Rule 25(1)(2) of CCS Leave Rules, 1972** with a condition stipulated therein that the said period shall be treated as “dies non”.

3. The learned counsel for the respondents has submitted that in view of the fact that the petitioner had



remained absent unauthorizedly, a department proceeding was initiated against the petitioner and he was inflicted with the punishment of dismissal by the competent authority, whereafter the petitioner had preferred an appeal before the D.I.G., C.R.P.F., Neemuch, however, the appeal was rejected. Thereafter, the petitioner had filed a revision petition before the I.G. Special Section, C.R.P.F., New Delhi and the aforesaid authority had passed an order directing for reinstatement of the petitioner, treating the period starting from the date of dismissal of the petitioner up to the date of reinstatement to be on duty. Subsequently, medical examination of the petitioner was held in the year 2003 and he was found to be medically unfit, whereupon, he was granted voluntary retirement w.e.f. 31.03.2005, vide order dated 18.08.2005. It is also submitted that as per Leave Rules, payment for Non Qualifying Service viz. L.W.P./ E.O.L. is not admissible, hence, question of delay for payment of 375 N.G.S. period does not arise. Therefore, it is submitted that the present writ petition is devoid of any merit, hence is fit to be dismissed.

4. This Court finds that the aforesaid aspect of the matter has not been refuted/ controverted by the petitioner, inasmuch as no rejoinder affidavit has been filed,



hence, considering the submissions made by the respondents in their counter affidavit, this Court finds that the present writ petition is devoid of any merit, hence is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.09.2023
Transmission Date	NA

