



WEB COPY

W.P.No.21891 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.21891 of 2022
and W.M.P.Nos.20909 & 20910

S. Mahalingam

... Petitioner

Vs.

- 1.The Secretary,
Union Public Service Commission,
Dholpur House, Shahjahan Road,
New Delhi – 110 069.
- 2.The Director General of CRPF,
CGO Complex, Lodi Road,
New Delhi – 110 003.
- 3.The Inspector General of Police,
Kerala & Karnataka Sector,
Group Centre Campus, CRPF,
Yelahanka,
Bengaluru – 560 064.
- 4.The Deputy Inspector General of Police,
Range HQr., CRPF,
Yelahanka,
Bengaluru – 560 064.



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5.The Deputy Inspector General of Police,
Group Centre, CRPF,
Yelahanka,
Bengaluru – 560 064.

6.The Commandant,
77 Battalion, CRPF,
Karaianchavadi,
Chennai – 600 086.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Ex parte Department Enquiry proceedings dated 03.07.2020 in proceeding No.P.VIII.1/2018-(77)-EC.3(R/BLR) drawn against the petitioner by the 4th respondent and the subsequent advice of the 1st respondent letter dated 08.02.2022 in Proceedings No.3/127/2021SI imposing penalty of withholding 100% pension and gratuity on permanent basis, which is forwarded by the 2nd respondent on 24.03.2022 and the consequential order of the 2nd respondent dated 26.07.2022 in No.R.XIII-1/2019(8)-DA-11-CRC, imposing penalty of withholding 100% pension and gratuity on permanent basis and quash the same as illegal and arbitrary and further directing the respondents to conduct fresh enquiry by giving opportunity of personal hearing to the petitioner herein.

For Petitioner : Mr.V.P. Sengottuvel,
Senior Counsel
for Mr.K.R. Nishanth



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For R1 : Mr.V. Chandrasekaran [U.P.S.C.]

For R2 to R6 : Mr.K. Ramanamoorthy,
Central Government Counsel

ORDER

Heard the learned Senior Counsel for the petitioner, learned counsel for the second respondent, as well as the learned Central Government Counsel appearing for the respondents 2 to 6.

2. Based on certain charges levelled against the petitioner herein, a domestic inquiry was conducted by the Disciplinary Authority, in which, the petitioner was set *exparte* and the Inquiry Officer had held the charges to have been 'proved' against the petitioner. Thereafter, the views of Union Public Service Commission (U.P.S.C.)/first respondent was sought for by the Disciplinary Authority and based on the views rendered by the U.P.S.C. on 08.02.2022, a representation was given by the petitioner herein on 16.04.2022. In this background, the views of U.P.S.C., imposing a penalty of withholding 100% of pension and gratuity on



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permanent basis, was challenged by the petitioner before this Court in WP.No.9976 of 2022 and by an order dated 28.04.2022, this Court had disposed of the Writ Petition by giving the following directions:-

..... *“6.On considering the above said facts and circumstances of the case and considering the submissions made by the learned counsels, it is seen that the petitioner has submitted his explanation to the respondents on 16.04.2022 and such explanation is pending, before the second respondent and so far no final decision is taken by the respondents, based on the enquiry officer report as well as the recommendation made by the Public Service Commission. The petitioner has raised a specific allegation that the enquiry officer has not conducted enquiry, as contemplated under the rules and the said explanation is pending with the respondents, for passing final orders. Therefore, this Court is inclined to direct the disciplinary authority to consider the explanation of the petitioner dated 16.04.2022 and to take appropriate decision in accordance with law, after providing opportunity to the petitioner, as early as possible. Till final decision is taken, the respondents shall continue to pay monthly pension amount to the petitioner.....”*



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3. In consequence to the orders passed by this Court, the impugned order dated 26.07.2022, came to be passed.

4. The learned Senior Counsel appearing for the petitioner submitted that though there was a specific direction in the order dated 28.04.2022 passed by this Court, to give an opportunity to the petitioner before passing final orders, no such opportunity was extended to the petitioner.

5. On the contrary, learned Central Government Counsel appearing for the respondents 2 to 6, submitted that the petitioner's further representation dated 16.04.2022, has been considered by the respondents in paragraph 10 of the impugned order and since the petitioner had failed to provide any supporting documents to the claim made in his representation, his representation came to be rejected and the punishment was imposed.



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6. When this Court had given a specific direction in WP.No.9976 of 2022 dated 28.04.2022, to grant a prior opportunity to the petitioner before taking a final decision while considering his further representation dated 16.04.2022, a perusal of the impugned order does not reveal that such an opportunity was extended.

7. On the other hand, a Disciplinary Authority seems to have considered the objections made by the petitioner in his further representation dated 16.04.2022 alone and have rejected the same. When there is a specific direction of this Court to afford an opportunity to the petitioner before a final decision is taken and the same has not been complied with, consequential order of punishment itself cannot be sustained since it is in violation of the directions of this Court. In this background, this Court is of the view that the matter can be remitted back to the Disciplinary Authority.

8. Accordingly, the impugned order dated 26.07.2022 passed by the



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second respondent, is hereby quashed and the matter is remitted back to the Director General of CRPF, New Delhi, who shall, extend due opportunity to the petitioner before passing any final decision. Such orders shall be passed within a period of three (3) months from the date of receipt of a copy of this order.

9. In the result, the Writ Petition stands partly allowed. No costs.

Connected miscellaneous petitions are closed.

19.12.2023

Index: Yes
Speaking order
Neutral Citation: Yes
Internet: Yes

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To

1. The Secretary,
Union Public Service Commission,
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2. The Director General of CRPF,
CGO Complex, Lodi Road,



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M.S. RAMESH, J.

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Group Centre Campus, CRPF,
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Bengaluru – 560 064.
- 4.The Deputy Inspector General of Police,
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