



Writ Petition No.26483 of 2018

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 11.12.2023**

**CORAM**

**THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN**

**Writ Petition No.26483 of 2018**

**and**

**W.M.P.No.30793 & 30796 of 2018**

C.Murugadoss  
S/o.Chinna Thambi

... Petitioner

Vs.

1. The Union of India  
Rep. by its Secretary to Government  
Ministry of Home Affairs  
New Delhi - 110 001.
2. The Director General  
Central Reserve Police Force  
CGO Complex  
Lodhi Road, New Delhi - 110 003.
3. The Inspector General  
Central Reserve Police Force  
Southern Sector  
Hyderabad.
4. The Deputy Inspector General of Police  
Central Reserve Police Force  
Group Centre, Renga Reddy



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Telangana.

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

... 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 3rd respondent dated 26.07.2010 in his order No.A.VI.3/2010.Admn-I and quash the same insofar as the portion relating to the appointment as Constable Peon as fresh appointment and direct the respondents to take the petitioner into the strength of C.R.P.F. as Constable GD with effect from 01.05.1997 and pay the backwages and continuite of service and promotion etc., and all monetary benefits.

For Petitioner : Mr.A.S.Mujibur Rahman  
For Respondents : Mr.N.Ramesh  
Senior Standing Counsel for  
Central Government

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### **ORDER**

This writ petition has been filed seeking to quash the impugned order dated 26.07.2010 bearing reference No.A.VI.3/2010.Admn-I passed by the third respondent insofar as the portion relating to the appointment as



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Constable / Peon as fresh appointment and direct the respondents to take the petitioner into the strength of C.R.P.F. as Constable GD with effect from 01.05.1997 and pay the backwages and continuity of service and promotion etc., and all monetary benefits.

2. The case of the petitioner is as follows:

2.1. The petitioner has joined as a Constable in the Central Reserve Police Force on 14.04.1991. While he was encountering the terrorist in the Manipur Forest, he sustained bullet injury in his leg ankle joint and was under treatment for some time and recovered. The petitioner had taken medical treatment from 01.02.1993 to October 1993 and thereafter, he was permitted to join duty and posted to Telephone duty, office runner, night guard duty and other light duties. Thereafter, the petitioner was directed to appear before the Medical Board and accordingly, he appeared and the Medical Board advised the petitioner to go for invalidation as the Medical Board assessed the disability as 80%. Again, 2nd Medical Board was constituted and the petitioner appeared before the 2nd Medical Board on



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16.04.1998 and the disability was assessed as 47%. Without even giving a reasonable opportunity, the first respondent has passed an order dated 12.04.1997 declaring that the petitioner is completely and permanently incapacitated for future service of any kind of C.R.P.F. Hence, the petitioner expressed his willingness to proceed on invalidation from service vide his application dated 15.04.1997. The petitioner was orally relieved from the duty with effect from 01.05.1997. Hence, the petitioner approached this Court by filing a writ petition in W.P.No.9048 of 1998 and this Court vide order dated 17.07.1998 directed the first respondent to consider the petitioner's appeal and pass suitable orders within a period of 12 weeks.

2.2. Thereafter, the first respondent issued the order passed by the second respondent on 25.06.1998 wherein, it was stated that the disability was assessed at the rate of 47% but the petitioner was able to run freely and got full capacity to work in the C.R.P.F. Aggrieved against the order dated 25.06.1998, the petitioner filed a writ petition in W.P.No.4108 of 1999 and this Court, vide order dated 05.09.2006 allowed the writ petition and



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directed the respondents to dispose of the request of the petitioner for appointing him in a suitable job within a period of 60 days, against which, the third respondent filed a writ appeal vide W.A.No.1005 of 2007 and the same was dismissed by the Hon'ble Division Bench on 05.03.2008 and the SLP, which was filed by the third respondent also came to be dismissed by the Hon'ble Supreme Court on 18.12.2009 by confirming the order of learned single Judge of this Court.

2.3. Most relevant portion of the order dated 05.03.2008 in W.A.No.1005 of 2007 is extracted as follows:

*'It may be true that as contended by the learned counsel for the appellants that there may be any light or desk work post available in the department and all the persons recruited are only been in the forefront. We have also taken note of the two reports of the Medical Board, one assessing the disability as 80% and other assessing the disability as 47% which would also causes suspicious as to the correctness of the assessment. As a matter of fact, we ourselves have seen the respondent, who appeared before this Court. The*



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*respondent is hale and health and in our view he is fit to do any work which is less onerous than sending him to the front line force. The respondent can be accommodated atleast by creating a supernumerary post having regard to the exemplary service rendered by him.*

*Having regard to the totality of the circumstances and the object of the enactment of the Disabilities Act 1 of 1996, though it is not made applicable to the respondent, the general trend is that the persons with minor disability, which they sustained during the course of their employment should not be thrown out from the employment and they should be accommodated so as to have security to life. Therefore, we are of the view that the appellants have not made out any ground to interfere with the order of the learned single Judge and hence, the same is confirmed by dismissing this appeal.'*

2.4. Thereafter, the third respondent passed the impugned order dated 26.07.2010 directing the petitioner to join as Constable / Peon. Accordingly, the petitioner on 31.08.2010 joined as Constable / Peon in the Group Centre, Hyderabad. Now, the petitioner is working at Group Centre, Ranga Reddy,



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Telangana as Constable / Peon. The main grievance of the petitioner is that the appointment of the petitioner as Constable / Peon from August 2010 without any promotion and without continuity of service is highly illegal and hence, the petitioner has filed the present writ petition.

3. The learned Senior Standing Counsel for respondents submits as follows:

3.1. The petitioner was appointed as Constable in CRPF on 14.04.1991. While, the petitioner was on duty at 119 Battalion at Manipur, he sustained injuries in his left leg ankle joint in an encounter with the terrorists in Manipur Forest area on 01.02.1993. The petitioner was under treatment for his injuries and thereafter, he was assigned with light duties. The petitioner appeared before the first Medical Board constituted on 21.03.1997 and his disability was assessed as 80% and advised for medical invalidation. Accordingly, the petitioner was medically invalidated out from service vide order dated 25.04.1997 with effect from 30.04.1997. The disability pension proposal for 80% disability under LPA Rules was



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forwarded to the competent authority, but the same was returned with observations that the percentage of disability of the petitioner had over rated by the Board of Medical Officers and asked to resubmit his disability pension proposal after duly re-assessing his percentage of disability by the competent Medical Invalidation Board vide letter dated 28.01.1998 of IGP, Southern Sector, Hyderabad.

3.2. Accordingly, the 2nd Medical Board was constituted on 16.04.1998 and re-assessed the petitioner's disability as 47% and the Medical Board had also opined that the petitioner is likely to remain unfit for duty from 21.03.1997. Based on the report of the 2nd Medical Board, the petitioner was sanctioned with disability pension under Liberalized Pensionary Award for 47% disability vide Order dated 26.06.1998 of the Deputy Director (Adm), Directorate General, CRPF, New Delhi. The petitioner was sanctioned with disability pension of Rs.2,379/- per month with effect from 01.05.1997 under LPA vide letter dated 30.06.1999 and the same was later revised at the rate of Rs.2,527/- per month with effect from



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01.05.1997 vide letter dated 30.10.2000. Similarly, the petitioner was also sanctioned with gratuity at the rate of Rs.17,210/- vide letter dated 30.10.2000.

3.3. In the meantime, the petitioner filed W.P.No.9048 of 1998 before this Court seeking to quash the notice dated 12.04.1997 and direct the respondents to reinstate the petitioner in service with full back wages from 01.05.1997 by posting him in light duty or in the alternative, permit the petitioner to go on medical invalidation of 80% disability and grant the pensionary benefits with arrears. The writ petition came to be disposed of on 17.07.1998 and this Court directed the respondents to consider the appeal of the petitioner dated 07.07.1998 and pass suitable orders within a period of twelve weeks. The petitioner again filed a writ petition in W.P.No.4108 of 1999 before this Court to reinstate him into service since he has fully recovered and to post him in light duty or in alternative to permit him to go for medical invalidation with 80% disability by granting full pensionary benefits with arrears and the same came to be allowed on



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05.09.2006 directing the Department to consider the case of the petitioner for fresh appointment in any Department so that the petitioner's livelihood will be safeguarded in future. Aggrieved against the order, the Department filed W.A.No.1005 of 2007 which was dismissed vide order dated 05.03.2008, against which, SLP came to be filed and the same was also dismissed on 18.12.2009. Thereafter, the Department has appointed the petitioner as Constable / Peon vide order dated 31.08.2010.

3.4. Since the petitioner has been drawing disability pension under LPA Rules from 01.05.1997 and he was also freshly appointed as Constable / Peon as per direction of this Court, the question of payment of back wages and continuity of service does not arise. Further, the petitioner, after serving as Constable / Peon for about 12 years, now cannot contend that the order passed by the third respondent appointing him as Constable / Peon without any promotion and continuity of service is illegal. Hence, the writ petition may be dismissed.



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4. Heard both sides.

5. On a perusal of the case file, it is seen that the petitioner has worked as Constable in the Central Reserve Police Force from 14.04.1991, while he was encountering the terrorist in the Manipur Forest, he sustained bullet injury in his leg ankle joint and was under treatment for some time and recovered, thereafter, the petitioner was given one month notice proposing him to invalidate out from service and in response, the petitioner had submitted his willingness to proceed on invalidation from service and accordingly, the petitioner was invalidated out from service with effect from 30.04.1997 vide order dated 25.04.1997. Again the petitioner approached this Court by way of W.P.No.4108 of 1999 and this Court directed the Department to give fresh appointment to the petitioner in any capacity so that his livelihood will be safeguarded. Pursuant to the order of this Court dated 05.09.2006 in W.P.No.4108 of 1999, the petitioner was freshly appointed as Constable / Peon on 26.07.2010. Since the petitioner has been



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drawing disability pension under LPA Rules from 01.05.1997 and also got fresh appointment as Constable / Peon from 26.07.2010 at Group Centre, Hyderabad, he cannot allege that the third respondent has appointed him as Constable / Peon without any promotion and continuity of service. Hence, this Court is of the view that there is no merit to interfere with the impugned order and the writ petition is liable to be dismissed.

6. Accordingly, this Writ Petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

**11.12.2023**

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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Ministry of Home Affairs  
New Delhi - 110 001.
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**V.BHAVANI SUBBAROYAN., J**

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