

**CWP-2415-2023 (O&M)
Date of decision-07.02.2023**

Ganesh Jat

...Petitioner

Vs.

Union of India and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rajeev Anand, Advocate for the petitioner.

Mr. Praveen Chander Goyal, Advocate for the respondents.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of Certiorari to challenge the order dated 02.01.2023 (Annexure P-13) as well as order dated 13.01.2022 (Annexure P-10), whereby his prayers for reinstatement in service were rejected. Further, the petitioner has challenged the order dated 19.10.2016 (Annexure P-8) by the Appellate Authority, whereby order dated 18.09.2015 passed by respondent No.4 terminating his services was upheld. Lastly, the petitioner has prayed for a writ in the nature of mandamus directing the respondents to take him back in service w.e.f. 17.10.2015 as he stands acquitted in both the criminal cases.

Learned counsel for the petitioner submits that the petitioner had joined as Constable with Central Reserve Police Force on 10.04.2013,

who performed his duties diligently and when he was on leave in February-March, 2015, he was arrested in FIR No.167/2015 registered under Sections 380 and 511 IPC at Police Station Partap Nagar, Jaipur, Rajasthan. According to the learned counsel, upon receiving the information of arrest of the petitioner, the department passed an order dated 29.04.2015 ordering his suspension w.e.f. 23.03.2015, and later he was charge-sheeted on 23.06.2015 for not disclosing this information.

Learned counsel further submits that the petitioner was again implicated in FIR No.92/2015, registered under Sections 380 and 457 IPC at Police Station Fagi, Jaipur, Rajasthan and in both these criminal cases, he was released on regular bail in August, 2015, and then he gave reply dated 17.07.2015 (Annexure P-3) in response to the charge memo dated 23.06.2015 and described his implication in the criminal cases as false. Learned counsel has pointed out that thereafter on 18.09.2015, his suspension order was revoked and the petitioner was taken back in service, but on the same date, notice of termination from service was issued to him under Rule 5 (1) Central Civil Services (Temporary Service) Rules, 1965 intimating him that his services stand terminated with effect from the date of expiry of 30 days from the date of service of this notice. Aggrieved against the said decision, the petitioner preferred an appeal before the DIG, Ranchi, which was later on forwarded to the Inspector General, CRPF, NWS, Chandigarh and vide decision dated 19.10.2016, the Inspector General dismissed the same.

Learned counsel has submitted that the petitioner after facing trial in both these criminal cases was acquitted vide judgments dated

10.05.2017 & 26.02.2021, and thereafter, he had again given a representation on 08.09.2021 before the Inspector General, CRPF, North-West Sector, Chandigarh setting up a fresh ground for reinstatement on the strength of acquittal, but through the impugned order dated 13.01.2022, his representation was also dismissed. Subsequently, the petitioner again filed petition under Rule 30 of CRPF Rules, 1995 before Director General, Central Reserve Police Force on 09.03.2022 reiterating the same prayer and pursuant to the direction issued by this Court on 18.10.2022 passed in his previous petition i.e. CWP No.23997 of 2022, the said representation has been rejected vide order dated 02.01.2023 (Annexure P-13).

Learned counsel has argued that the approach adopted by the respondent is wrong and illegal as the petitioner stands acquitted in both the criminal cases, therefore, there is no impediment in his again joining on the post of constable with the respondents. He submits that mere registration of a criminal case cannot be taken as an adverse ground to terminate the services of an employee and despite acquittal of the petitioner as well representations, the respondents have continued to maintain their rigid stand. He prays that the impugned orders be set aside and further a direction be issued to the respondents to reinstate him back in service with all consequential benefits.

After hearing the learned counsel and considering the material on record, it transpires that the petitioner joined his service as Constable with CRPF on 10.04.2013 and during the probation period, he was embroiled in criminal cases, which led to his arrest. Twice, his probation period was extended and thereafter, on 18.09.2015 when he was on

probation, his services were terminated. A perusal of the termination order dated 18.9.2015 shows that it does not carry any stigmatic reason against the petitioner and he was intimated that his services would be terminated with effect from the date of expiry of 30 days from the date of service of the notice. No doubt a charge sheet dated 23.06.2015 was served upon him for the alleged misconduct of not intimating the department about his arrest, but concededly, the said enquiry proceedings were withdrawn. The petitioner’s appeal against the order dated 18.09.2015 had also failed vide decision dated 19.10.2016 passed by Inspector General, CRPF, who found the petitioner to be unfit for the disciplinary service. The appellate authority while dealing with the petitioner’s alleged ground raised in the appeal that he was allegedly standing outside, whereas the other accused persons had taken away the ATM machine, has observed that the petitioner is unworthy of being member of disciplinary force and this decision was never challenged by the petitioner. Merely because the petitioner had given his representations after a long delay requesting the respondents to reinstate him and dismissal of the said representations cannot be construed as a fresh cause of action to re-agitate the old issue.

Resultantly, in view of the above discussion, this Court has no hesitation in holding that the writ petition is without any merit and no interference is warranted under Article 226 Constitution of India.

Dismissed.

07.02.2023

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Whether speaking/reasoned :

Whether Reportable :

(MANOJ BAJAJ)

JUDGE

Yes

No

Yes

No