

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3470 of 2020

Krishna Kumar, son of Shri Motilal Sharma, resident of Purwari Tola,
Mahuawa, P.S.- Chanpatia, District- West Champaran, Pin Code- 845450.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, Government of India, New Delhi.
2. The Director General, Central Reserve Police Force, New Delhi.
3. The Special Director General of Police, Central Zone, Central Reserve Police Force, Kolkata.
4. The Inspector General of Police, Bihar Sector, Central Reserve Police Force, Patna.
5. Commandant, Office of Deputy Inspector General of Police, Recruitment Training Center, Central Reserve Police Force, Trisundi, Amethi, Uttar Pradesh.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Abhinav Srivastava, Adv.
For the Respondent/s	:	Mr. Amarendra Nath Verma, Sr. Adv.
	:	Mr. Rakesh Kumar Sinha, C.G.C.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 13-09-2024

Heard Learned Counsel for the petitioner and
Learned Counsel for the Union of India.

2. The present writ petition has been filed for quashing the order dated 22.07.2019 passed by the concerned authorities of the office of Special Director General, Central zone, Central Reserve Police Force, Kolkata by which the order dated 07.04.2015 on the mercy petition filed by the petitioner against the punishment of termination from service has been rejected. Further, prayer has been made for quashing of the order dated 07.04.2015 passed by the Inspector General, Bihar Sector, CRPF, Patna, by which, the appeal preferred by the petitioner against the order of termination from service dated



05.12.2014 has been rejected.

3. Additionally, prayer has been made for quashing the order dated 05.12.2014 issued by the Commandant, Reserve Training Center, Trisundi, Amethi (Uttar Pradesh) by which the services of the petitioner in the capacity of Constable (General Duty) under CRPF has been terminated and further prayer has been made to issue writ in the nature of mandamus commanding the Respondent Authorities to take steps towards reinstating the petitioner in the services of the CRPF in the capacity of Constable (General duty), along with the consequential benefits in terms of arrears of salary, seniority, etc.

4. Learned Counsel for the petitioner submits that the petitioner had earlier moved before this Hon'ble Court twice. Firstly, he had moved in C.W.J.C. No.1796 of 2015 in which, vide order dated 11.03.2015, he was granted permission to withdraw the application in order to avail the remedy under Rule 5(2)(A) of the Central Civil Service (Temporary Service) Rules, 1965 and secondly, he had moved in C.W.J.C. No.15570 of 2015 in which vide order dated 02.04.2019, the writ petition was disposed off directing the Director General, Central Zone, CRPF to dispose off the mercy appeal by a reasoned and speaking order in accordance with law within the period of 3



months from the date of receipts/production of the said order.

5. Learned Counsel further submits that after rejection of the mercy appeal, the present writ petition has been filed before this Hon'ble Court. He further submits that the selection of the petitioner was made vide letter dated 14.03.2014 issued by the concerned authorities of the Office of Deputy Inspector General of Police, Group Center, Mokama Ghat, Patna. The petitioner was made an offer of appointment against the post of Constable (General Duty) in the services of the CRPF. He further submits that after his joining on 11.04.2014, the petitioner along with other similarly situated persons was sent to Recruitment Training Center at Trisundi, Amethi (Uttar Pradesh), for training.

6. Learned Counsel further submits that during the training period, particularly on 30.10.2014, the petitioner fell from a considerable height while trying to climb down using a monkey rope and as a result thereof, the petitioner sustained an injury in the left leg around the ankle, following which, he was admitted to the Group Center Hospital of CRPF at Amethi and started undergoing treatment.

7. Learned Counsel further submits that the petitioner had visited the Group Center Hospital of CRPF at



Amethi time to time, but condition of his ankle did not improve. Subsequently, when the petitioner did not find any improvement after a considerable period of time, then he sought permission from the concerned authorities under CRPF to allow him to consult other doctors, but permission being denied, his request for proper treatment was also declined.

8. Learned Counsel further submits that under the compelling circumstances, it was necessitated for the petitioner to proceed to Bettiah, his native place, on 17.11.2014 in order to consult a doctor and undergo treatment, whose certificate has also been attached. It has further been submitted that the petitioner upon consultation with the doctor discovered ligament injuries in his left ankle for which necessary treatment was given. After improvement upon the treatment, the petitioner returned at the Recruitment Training Center at Trisundi, Amethi (Uttar Pradesh) on 05.12.2014, but he was not allowed to submit his joining whilst impugned termination order dated 05.12.2014 was issued from the office of DIGP/Principal, Recruitment Training Center, CRPF, Trisundi, Amethi, in pursuance of the proviso to Sub Rule (1) of Rule 5 of Central Civil Service (Temporary Service) Rules, 1965, thus leading to termination of service of petitioner. It was furthermore directed that the



petitioner would be entitled to claim a sum equivalent to the amount of his pay plus subsistence allowances for the period of notice, at the same rates at which he had joined immediately before the termination of his service and accordingly, the petitioner's name was struck off strength to Group Center, CRPF, Mokama Ghat, Patna.

9. Learned Counsel for the petitioner submits that the provision of law under which termination order has been passed, is not applicable on him, due to the reason that the petitioner comes under the provision of Central Reserve Police Force Rules, 1955 and every provision of said Act has to be applied on him. He further submits that Rule 31 of the Central Reserve Police Force Rules, 1955 categorically narrates about the provisions laid down relating to desertion and absence without leave. He further submits that under the said rule, his case has not been considered. Therefore, the entire order passed by the Original Authority is absolutely illegal and this aspect has not been considered either at appellate level or at mercy level. In this view of the matter, he submits that the entire impugned orders ought to be set aside.

10. Learned Counsel for the petitioner further submits that the petitioner comes within the purview of Rule



4(A) of the CRPF Rules, 1955 which states about the “Composition of the Force”.

11. Learned Counsel for the Union of India on other hand submits that it is the third round litigation before this Hon’ble Court. He further submits that in the first round litigation, the petitioner sought permission to withdraw the writ petition only with a view to avail the remedy before the Appellate Authority under Rule 5(2)(A) of Central Civil Service (Temporary Service) Rules, 1965 and then permission to pursue has been granted by this Court. In the second round of litigation, the petitioner’s service was found within the ambit of Rule 1(3) (i) of the Central Civil Service (Temporary Service) Rules, 1965 and not under CRPF Rules, 1955. Since it has been mentioned that he is covered under Constable (General Duty) and not under Rule 5 of the CRPF Rules, 1955.

12. Learned Counsel for the Union of India further submits that the latter point which the petitioner is raising here *i.e.*, non-applicability of Central Civil Service (Temporary Service) Rules, 1965 in the third round of litigation for the first time, whereas he never raised it at any early occasion.

13. Learned Counsel for the Union of India concluded that the petitioner was appointed as Constable



(General Duty) in CRPF, his services was not confirmed and he was under training at relevant time. He had left the training center violating the discipline, thereafter the Authority had passed such orders. Therefore, his case may be rejected on this ground alone.

14. After hearing the parties, going through the documents and law discussed by the petitioner, it transpires to this Court that Question of Law can be raised at any stage of case. Therefore, the petitioner has been permitted to raise the Question of Law and its applicability in the present writ petition. There is no illegality in the same and it is permissible for the petitioner to raise Question of Law at any stage.

15. It is true that the petitioner has mentioned in the pleadings that the petitioner was appointed on the post of Constable (General Duty) and during training period, he had demanded and requested to his Superiors for proper treatment outside the Training Center. But the said request was declined, meaning thereby, the Superiors have categorically instructed him not to go outside, even then, violating the instructions he went outside without any information; in other words, after decline of his request for outside treatment, the petitioner has intentionally disobeyed the Superiors' decision.



16. It is an admitted fact that the petitioner's service was not confirmed. As such, this Court is of the view that since the petitioner was appointed on post of Constable (General Duty) which comes within the category of Civil Post including civilians paid from the Defence Service and not as a Force Personnel. It also transpires to this Court upon perusal of Rule 4(A) of the Central Reserve Police Force Rules, 1955, that Constables (General Duty) is not a post covered under Rule 5(1) (b) of the Central Reserve Police Force Rules, 1955. Therefore, the applicability of Central Civil Service (Temporary Service) Rules, 1965 particularly, Rule 1(3)(i) shall be applicable in the present case, since Central Reserve Police Force Rules, 1955 is applicable upon confirmed employees only. In the opinion of this Court, under Central Civil Service (Temporary Service) Rules, 1965, one month notice and other benefits have to be granted, which have already been mentioned in the original termination order dated 05.12.2014.

17. The provision of Rule 1(3)(i) of the Central Civil Service (Temporary Service) Rules, 1965 states as follows:-

“1(3)(i) who hold a civil post including all civilians paid from the defence services estimates under the Government of India and who are under the rule making control of the



President, but who do not hold a lien or a suspended lien on any post under the Government of India or any State Government.”

18. Another aspect of the matter is also involved in the present case *i.e.*, Rule 16(a) of Central Reserve Police Force Rules, 1955 clearly states as follows:-

16. Period of service.- (a) All members of the Force shall be enrolled for a period of three years. During this period of engagement, they shall be liable to discharge at any time on one month's notice by the appointing authority. At the end of this period those not given substantive status shall be considered for quasi-permanency under the provision of the Central Civil Services (Temporary Service) Rules, 1965. Those not declared quasi-permanent under the said rules shall be continued as temporary Government employees unless they claim discharge as per Schedule to the Act. Those who are temporary shall be liable to discharge on one month's notice and those who are quasi-permanent shall be liable to discharge on three months' notice in accordance with the said rules, as amended from time to time.

19. Upon conjoint reading of Rule 16(a) of the Central Reserve Police Force Rules, 1955 and Rule 1(3)(i) of the Central Civil Service (Temporary Service) Rules, 1965, it transpires to this Court that the petitioner was not holding a



substantive status. Therefore, his status was as like that of temporary Government employee, and hence, it transpires to this Court that the case of the petitioner has rightly been covered under the Central Civil Service (Temporary Service) Rules, 1965.

20. It transpires from the orders passed by the Appellate Court as well as in the mercy petition that except the legal point decided here, each and every aspect which has been presented by the petitioner in the present writ petition has been given consideration, and therefore, this Court is not inclined to interfere in the order dated 22.07.2019 passed by the Office of Special Director General, Central zone, Central Reserve Police Force, Kolkata as well as in the order dated 07.04.2015 passed by the Inspector General, Bihar Sector, CRPF, Patna.

21. Accordingly, the present writ petition stands dismissed.

(Dr. Anshuman, J.)

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CAV DATE	
Uploading Date	
Transmission Date	

