

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6113 of 2018

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Indradev Kumar, Son of Nawal Kishore Yadav resident of village -
Hasanchak, P.O. Bahrawan, P.S. - Barh, District - Patna.

... .. Petitioner/s

Versus

1. The Union Of India through Inspector General of Police, Bihar Sector CRPF, Patna.
2. The Inspector General of Police, Bihar Sector, Central Reserve Police Force, Ashiyana Digha Road, Patna
3. The Director General, Central Reserve Police Force CRPF, New Delhi.
4. The Deputy Inspector General of Police, Group Centre, Mokamaghat, CRPF, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Tej Bahadur Singh, Sr. Adv. Mr. Abhishek Kumar, Adv.
For the U.O.I.	:	Mr. Kanak Verma, CGC

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 13-02-2024

Heard learned senior counsel for the petitioner and
learned counsel for the State.

2. The present writ petition has been filed with
following reliefs:-

(i) For setting aside office order contained in Memo
No. D-V-1/2017-EC-6 dated 05.12.2017 (annexed as Annexure-
P/3) whereby and where under the present petitioner was
terminated in pursuance of proviso to the sub rule (1) of Rule 5
of Central Civil Services (temporary service) Rule 1965.



(ii) For setting aside order dated 10.01.2018 passed by respondent no.2 (Inspector General of Police, Bihar Sector, Central Reserve Police Force, Ashiyana Digha Road, Patna) (annexed as Annexure-P/4).

(iii) For commanding the respondent to appoint the petitioner on the post of constable (general duty) Central Reserve Police Force (hereinafter referred to as CRPF).

3. Learned senior counsel for the petitioner submits that the petitioner having requisite qualification and medical/physical fitness applied with Staff Selection Commission, Government of India for appointment of Constable(General Duty) in CRPF and Rifle man in Assam Rifle-2015 by depositing the required fee through net banking and submitting his application form. Counsel also submits that as a result of successful completion of written examination and completion of recruitment process, the petitioner was allotted for his enlistment in CRPF and he was provisionally selected for appointment as Constable (General Duty) in CRPF and offer of appointment for the post of Constable (General Duty) in CRPF was issued in favour of the petitioner from the office of Deputy Inspector General of Police, CRPF, Mokamaghat on 28.02.2017. In the said letter, it has been specifically mentioned that this post



is temporary and likely to continue and the petitioner was directed to join on 21.03.2017. After joining, the petitioner has gone for his training. It has been claimed that the petitioner was terminated by the office of respondent no.4 (Deputy Inspector General of Police, Group Centre, Mokamaghat, CRPF, Patna) without proving any reason and without any show cause and a letter of termination was handed over to the petitioner *vide* order dated 05.12.2017. Counsel further submits that the said order of termination has been passed without notice, without assigning any reason which is in complete violation of procedure laid down in Rule 5 of the Central Civil Services (temporary service) Rule 1965 and as such, the said termination is absolutely bad in law.

4. Learned senior counsel for the petitioner submits that the petitioner challenge the said termination order before Inspector General of Police, Bihar Sector, Central Reserve Police Force, Ashiyana Digha Road, Patna, but his appeal was rejected on 10.01.2018 and order of termination was upheld. Counsel also submits that the petitioner thereafter, challenge both the orders before this Hon'ble Court. Counsel further submits that in support of his removal from service, he relies on judgment of ***Rahul Kumar Vs. Union Of India & Ors. dated***



02.08.2018 passed in Civil Writ Jurisdiction Case No. 206 of 2018 in which it has been held by this Court that:-

“it is not a simplicitor termination but connected with the serious allegation against him of suppression of fact with respect to his past life, at least, it was desired from the Commandant that before terminating the services, he should have brought to the notice of the petitioner of suppression of fact considering the explanation and would have taken a decision in accordance with law. With this observation, the writ petition has been allowed.”

Counsel further relied on another judgment decided in case of ***Union of India Vs. Ramesh Bishnoi*** reported in **2020(1)PLJR SC 61** in which it has been said that:-

“the case against the respondent not with regard to the suppression of any conviction or charge having been framed against him the respondent has very fairly disclosed about the charges which has been framed and on the basis of no evidence having been adduced by the complainant against the respondent in considered



view of the Hon'ble Supreme Court, the same cannot also be said to be a suppression by the respondent on the basis of which he could be deprived of a job for which he was duly selected after following the due process and appointment having been offered to them."

Counsel further relied on judgment of this Hon'ble Court decided in case of ***Sunil Kumar Vs. State of Bihar through The Chief Secretary & Ors.*** reported in ***2021(3) PLJR 827*** about which this Hon'ble Court has said so that:-

"the petitioner has suppressed the fact that he was accused in criminal case while filing the form of appointment on the post of Constable. However, panchayti had taken place for alleged criminal case wherein, matter was settled and the decision of panchayat was submitted before the Court below and the petitioner was also acquitted. It has been decided that punishment of removal from service is harsh and disproportionate to the allegation levelled against the petitioner."



5. Learned counsel for the Union of India on the other hand submits that the removal of petitioner from the post of Constable is completely in accordance with law as laid down in the Rule 5(1) of Central Civil Services (temporary service) Rule 1965. Counsel also submits that the petitioner has made complete suppression in the form on the basis of which he has been appointed. Counsel further submits that in column 12 of the form which the petitioner has to submit under Rule 14(B) known as Verification Roll, the petitioner has disclosed that he has not ever been arrested, not prosecuted, not kept under detention and never been bound down. Counsel submits that all the things were disclosed incorrectly and the petitioner has suppressed in the form by way of negation, whereas, truth is otherwise.

6. Learned counsel for the Union of India further submits that the order of acquittal was of 18.03.2017, whereas, the said form has been filed up on 21.03.2017. Counsel also submits that in the light of said rule, the petitioner at worst is entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rates at which he was drawing immediately, before the termination of his service, or as the case may be for the period by which such



notice falls short of one month.

7. Learned counsel for Union of India conclusively argued that the petitioner's candidature has not been rejected on this ground that he was arrested or criminal case pending or on bail or given undertaking before the Court, rather, his removal from service was made only on the ground that he has made suppression in the verification form 14(B) before the employer.

8. In the light of the submissions made by the parties and documents on record, it transpires to this Court that the petitioner has been acquitted *vide* order dated 18.03.2017 passed in Juvenile Justice Board No. 42/2010.

9. Upon reading of those paragraphs, it transpires to this Court that acquittal of the petitioner has been made on 18.03.2017 and he has filled up the form on 21.03.2017. From the judgment of acquittal, it is crystal clear that the petitioner was arrested, case was continued against him and he was kept in detention and has been bound down also, meaning thereby, every entry made in paragraph 12 of the said form has been completely suppressed by the petitioner.

10. So far as the case of *Union of India Vs. Ramesh Bishnoi (supra)* is concerned, this case is relating to CRPF. In the said case, the Hon'ble Supreme Court of India has



found that the petitioner did not made any suppression and he has disclosed the correct fact before the authority and it is due to this reason, the Hon'ble Supreme Court has allowed the case in favour of the said delinquent. But, here, it is not the case and the petitioner has completely suppressed entire disclosure and therefore, the case of *Union of India Vs. Ramesh Bishnoi (supra)* shall not help the petitioner in any manner.

11. So far as the case of *Sunil Kumar Vs. State of Bihar through The Chief Secretary & Ors. (supra)* is concerned, this case is relating to appointment of a person in State Police, whereas, the present case is relating to Central Police which requires a high degree of honesty and integrity and therefore, in view of this Court, this judgment shall also not help the petitioner in any manner.

12. So far as the third judgment on the point that order of termination does not contain any reason that on what grounds, the petitioner has been terminated and at least an opportunity of hearing may be granted to him. This court agreed that the petitioner ought to be granted an opportunity of hearing.

13. As such, this Court set aside both the orders i.e. office order contained in Memo No. D-V-1/2017-EC-6 dated



05.12.2017 (annexed as Annexure-P/3) and order dated 10.01.2018 passed by respondent no.2 (annexed as Annexure-P/4), only on this ground that prior to taking any decision and violation of natural justice may not be done as the present order is not simplicitor termination, rather, termination on the ground of suppression. So, at least one opportunity may be given to the petitioner.

14. It is directed to the respondent that the petitioner after production of this order, the respondent commandant shall pass a reasoned and speaking order within 30 days granting opportunity to defend.

15. With the aforesaid observations and directions, this writ petition is hereby disposed off.

(Dr. Anshuman, J.)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	17/02/2024
Transmission Date	NA

