

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8818 of 2012

=====

INDER KUMAR YADAV Son Of Late Sri Ram Yadav R/O Village-Mirza Ka
Bagi, P.O.Pratapgarh, District-Pratapgarh Uttar Pradesh

... .. Petitioner/s

Versus

1. THE UNION OF INDIA through the Secretary, Ministry of Home Affairs,
New Delhi.
2. The Inspector General, Central Reserve Police Force, Bihar Sector, Patna-
800025
3. The Deputy Inspector General, Central Reserve Police Force, Bihar Sector,
Patna-800025
4. The Commandant, 147 Battalion, Central Reserve Police Force, Kashipur,
Silchar Assam

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Ms.Smt. Anuradha Singh,Advocate
For the U.O.I.	:	Mr.Anshuman Singh, C.G.C.
	:	Mr. Ranjan Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
CAV JUDGMENT

Date :12-03-2024

Heard Ms. Anuradha Singh, learned counsel for the
petitioner and Mr. Anshuman Singh, learned Central Government
Counsel for the Union of India.

2. The present writ application has been filed for
quashing the orders dated 14.10.2009,25.03.2009 and 20.12.2008
as contained in Annexures-8,7 and 5 respectively passed by the
respondent Nos.2,3 and 4.

3. Learned counsel for the petitioner submits that the
petitioner was initially appointed as Constable on 05.03.2002 in
the Central Reserve Police Force (hereinafter referred to as CRPF).



The leave of the petitioner has been sanctioned w.e.f.14.10.2007 up to 27.10.2007 in order to arrange the treatment of his wife. Learned counsel for the petitioner submits that when the petitioner was at his home in District-Pratapgarh, he became seriously ill on 24.10.2007 and his treatment was started in the District Hospital Pratapgarh. Due to his prolonged illness, he could not report on duty on 28.10.2007 on the place on which he was posted. Learned counsel for the petitioner submits that the treatment of the petitioner continued for considerable a long period, due to his condition continued to deteriorate, he underwent treatment to nearby Primary Health Centre, Prithviganj, Pratapgarh from 27.02.2008 to 22.04.2008. When the condition of the petitioner did not improve, then he consulted to a Private Hospital on 23.04.2008 and his treatment was continued up to 09.05.2008. After feeling fit for reporting on duty, he rushed towards his place of posting but he fell down from stairs on Pratapgarh Railway Station causing physical injuries on his chest and he was again admitted to nearby Primary Health Centre and his treatment continued up-to 06.09.2008 and after recovery from his prolonged illness, he reported on duty on 24.11.2008.

4. Learned counsel for the petitioner submits that during the aforesaid period, a chargesheet was issued against the



petitioner on 10.05.2008 by the respondent No.4. From a bare perusal of the aforesaid chargesheet dated 10.05.2008 it suggests that two charges were framed against the petitioner with regard to unauthorized absence from duty and secondly in spite of the direction given by the Disciplinary Authority, he did not undergo treatment in any C.R.P.F. Hospital or Government Hospital. On the basis of the aforesaid chargesheet dated 10.05.2008, the Inquiry Officer conducted the enquiry in absence of the petitioner. The petitioner came to know about ex-parte departmental enquiry by way of show cause notice dated 26.11.2008, annexed with the alleged enquiry report dated 20.10.2008. The Inquiry Officer while submitting his report to the disciplinary authority, discussed in detail about the explanation submitted by the petitioner and day to day progress of his treatment but while concluding his report, the Inquiry Officer was found the charges framed against the petitioner are proved and established merely on the basis of suspicion that the petitioner suffers from home sickness and as such his conduct is not in accordance with the standard prescribed for disciplined force.

5. Learned counsel for the petitioner submits that the petitioner has submitted his explanation to the show cause notice dated 26.11.2008 on 07.12.2008 but the respondent No.4, who was



Disciplinary Authority, without considering the explanation submitted by the petitioner and without considering the peculiar circumstances of the case, passed the order dismissing the petitioner from service on 20.12.2008. Petitioner has filed the statutory appeal under Regulation 28 of the Rules on 15.01.2009 before the respondent No.3 but the Appellate Authority i.e. respondent No.3 without considering the grounds taken by the petitioner in his appeal, rejected the same vide order dated 25.03.2009. The petitioner has preferred a revision application before the respondent No.2 under Regulation No.29 of the Rules and challenged the order dated 20.12.2008 and 25.03.2009 but the revision application of the petitioner was also dismissed vide order dated 14.10.2009. Learned counsel for the petitioner submits that from a bare perusal of the order dated 20.12.2008, 25.03.2009 and 14.10.2009, it appears that the same has been passed without considering the explanation given by the petitioner and the impugned orders have been passed in gross violation of principles of natural justice and without affording the adequate opportunity of hearing and presenting the defence of the petitioner and the impugned orders are based on an ex parte enquiry report and as such the same cannot be sustained in the eyes of law.



6. Mr. Anshuman Singh, learned counsel for the respondent-Union of India submits that the petitioner was proceeded on 15 days leave with effect from 14.10.2007 to 27.10.2007. He was liable to report for duties on 28.10.2007 but he remained over stayed from leave w.e.f. 28.10.2007 to 23.11.2008 (total 393 days) without sanction/permission of the same from the competent authority which is against the discipline and good order of the Force. Learned counsel for the Union of India further submits that the Officer Commanding A/147 Battalion, CRPF vide their letter dated 18.11.2007, 07.12.2007, 20.12.2007, 04.01.2008 and 04.04.2008 had directed him to report for duties but he did not report for duties in time and remained absent from duties up to 23.11.2008. In the meantime, a warrant of arrest was issued against the petitioner on 02.02.2008 and a Board of Office was also detailed to conduct Court of Inquiry to find out the circumstances for being OSL by the petitioner vide this Office Order dated 16.03.2008. The petitioner was declared 'DESERTER' from this force on 06.05.2008. In spite of the above, neither State Police arrested the petitioner nor the petitioner reported for duty. Then the authority concerned have no other option under the appropriate Rule, departmental enquiry was initiated against the petitioner and during course of departmental inquiry, the petitioner



was directed to report physically for conducting/participating in the inquiry proceeding vide letter dated 30.06.2008 but he did not report before the Inquiry Officer and produced self-related medical documents. Due to non-reporting of the petitioner in the process of departmental proceeding, Inquiry Officer had initiated an ex-parte departmental enquiry against the petitioner. Finally, the Inquiry Officer has completed the enquiry proceedings and forwarded a copy of the same to the home address of the petitioner through registered post alongwith statements of prosecution witness. Copies of exhibits vide letter no. P.VIII-I/2008-R.S.Y. dated 26.08.2008 with a direction to submit his statement within 20 days from the receipt of said letter either by reporting himself or through postal mode but the petitioner not reported before the Inquiry Officer but he has informed through letter that he will report after his fitness within 25 days then he will submit his representations. Learned counsel for the Union of India submits that the petitioner reported in Unit on 24.11.2008 before issuing final order of the said departmental enquiry against the petitioner, the Disciplinary Authority had forwarded a copy of the enquiry report to the petitioner as per Rule with a direction to submit representation, if any, within 15 days. The petitioner had submitted his representation alongwith medical documents before the



Disciplinary Authority. The Disciplinary Authority after going through the enclosed medical documents submitted by the petitioner, it has come to the notice that during the absence from duties, the petitioner used to take treatment from various Doctors and when one Doctor declared him fit for duty he used to report before another Doctor for his treatment but the petitioner had not enclosed any receipt of medicines purchased by him since last one year and one month alongwith his representation. Moreover, after declaring him fit for duties by the Doctors on three occasions, he did not report for duties. Learned counsel for the Union of India submits that it reveals from the aforesaid facts that the petitioner remained himself absent from duties for a period of one year and one month just taking the help of his illness and unreliable medical documents and the petitioner was given ample opportunity/time to defend himself from the very beginning to the end of the case but he failed to submit any proof which actually defend his case. The petitioner had absented himself from duties twice to this so little service career which clearly indicates that the petitioner is a habitual offender of being absented from duties and he has no interest to serve this force and the Disciplinary Authority has dismissed the petitioner from service with effect from 20.12.2008 after giving ample opportunity and the appeal and revision of the



petitioner was also dismissed and there is no procedural irregularity in the proceeding and the ample opportunity has been given to the petitioner to defend his case. The order dated 20.12.2008, 25.03.2009 and 14.10.2009 passed by the Disciplinary Authority, Appellate Authority and Revisional Authority is well within the purview of existing rules/instructions and awarded punishment of 'dismissal from service' which commensurate with the gravity of offence committed by the petitioner and apart from that the revisional order passed in the year 2009 and the petitioner has approached this Court in the year 2012 after lapse of three years which suggests that the petitioner is not vigilant.

7. In the aforesaid background, it is clear that the authority has given the ample opportunity to the petitioner to defend his case in accordance with Rule and there is no procedural irregularity in the present proceeding and there is no violation of principles of nature justice in the present case and he remained overstayed from leave w.e.f. 28.10.2007 to 23.11.2008 (total 393 days) without sanctioned/permission of the same from the competent authority which is against the discipline and good order of the force.



8. There is no merit in the writ application. Accordingly, it is dismissed as being devoid of merit, there will be no order as to costs however.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	30.11.2023
Uploading Date	12.03.2024
Transmission Date	NA

