



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.4153/2024

Shaikh Shaukat Shaikh Shafi Vs. The Director (IB), Central Reserve Police
Force, Block No.1, New Delhi and others

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mrs. S.W.Deshpande, Advocate for petitioner.

CORAM : NITIN W. SAMBRE & ABHAY J. MANTRI, JJ.
DATE : JULY 15, 2024.

We have heard Mrs. Deshpande, learned counsel appearing for the petitioner.

2. On 12th December, 1992 the petitioner was appointed as Constable with the respondent-CRPF.

3. In view of his ill-health, it is claimed that he was hospitalised on 3rd January, 2006 at Composit Hospital of CRPF, at Bantalab, Jammu.

4. On 2nd March, 2006 he was discharged and was advised rest.

5. The petitioner was required to report for duty on 2nd April, 2006, however, it is claimed that due to his ill-health he could not resume the services.

6. Subsequently, the petitioner was proceeded against departmentally and an enquiry was conducted against him

under Section 11 (1) of the CRPF Act, 1949 read with Rule 27 of the CRPF Rules, 1955.

7. The Charge framed against the petitioner were:

(a) Overstaying the leave period without prior permission/sanction of the competent authority with effect from 21.11.2005 to 23.01.2006;

(b) While functioning as a constable he has committed an act of disobedience, as directions given by the Company Commander to refer back to the duty were not honoured.

8. He was held guilty and as such, vide order dated 2nd February, 2007, the petitioner was dismissed from service. An appeal preferred by the petitioner also came to be dismissed vide order dated 16th May, 2007 passed by the Deputy Inspector General of Police, CRPF, Raipur.

9. The petitioner subsequent thereto, approached before the authority claiming terminal benefits, which is claimed to have been denied, vide impugned orders dated 10th February, 2021, 22nd March, 2021 and 26th March, 2021.

10. Mrs. Deshpande, learned counsel for the petitioner would strenuously urge that the petitioner was never offered an opportunity of hearing during the departmental enquiry. She would claim that the respondent-department was insensitive to

the ailment of the petitioner, as it could be inferred from the available material that he was suffering from serious ailment, which prompted him to be admitted in the CRPF hospital, Jammu. She would claim that in absence of there being an opportunity of hearing, the impugned order of termination and also dismissal of appeal against such termination order are not sustainable.

11. According to the learned counsel, the petitioner has rendered more than 13 years of service and as such the petitioner is entitled for all the terminal benefits and pension. She would claim that before passing the order impugned, the petitioner was not heard and that being so, the impugned order of refusing the pension and gratuity benefits has been rendered illegal.

12. We have appreciated the said submissions in the light of the fact that termination order was issued to the petitioner on 2nd February, 2007.

13. The fact remains that for the first time, the petitioner is challenging the termination order dated 2nd February, 2007 after a lapse of 17 years. The petitioner has preferred an appeal against the order of termination, the appeal was also dismissed on 16th May, 2007. Both these orders as could be inferred from

the record are questioned after a period of 17 years without there being any explanation for the delayed action.

14. Though Mrs. Deshpande strenuously rely on the fact of alleging denial of an opportunity of hearing and the petitioner having approached the High Court Legal Services, Sub Committee in 2018, we are not able to convince ourselves on the explanation tendered in support of the delayed approach on the part of the petitioner seeking challenge to the order of termination and dismissal of the appeal.

15. The challenge to the termination and dismissal of the appeal against the said order before Lok Adalat that too in 2018 i.e. after a period of 11 years would not bring the petitioner any relief.

16. Apart from above, this Court is required to be sensitive of the fact that Reserve Police Force has its working based on the principle of discipline. The petitioner was charged with the indiscipline behaviour and also insubordination, charges was duly proved against him.

17. In the aforesaid background, we hardly see any reason to interfere in the order impugned of termination and dismissal of the petitioner from the service and dismissal of appeal against such order.

18. Once the petitioner was dismissed from service, it was for the petitioner to demonstrate that in such an eventuality, he is entitled for gratuity and pension.

19. We hardly see any provision, which is brought to our notice so as to infer that inspite of the petitioner having rendered services of 13 years and after dismissal from the service having suffered a departmental enquiry is entitled for gratuity and pension.

20. In the aforesaid background, we see no reason to cause interference. The petition lacks merit. Petition stands dismissed. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)