



WP.No.15262 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.N.MANJULA

WP.No.15262 of 2020

R.Monikandan

Petitioner

Vs

1. The Deputy Inspector General of Police
Bangalore Range, CRPF, Bangalore

2. The Commandant-77BN
CRPF, Poonamallee, Chennai-56

Respondents

Prayer:- This Writ Petition has been filed, under Article 222 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 1st Respondent, dated 26.04.2017, made in No.R.XIII-2/2017-(77)-EC-3(R/BLR) and to quash the same in so far as the finding Nos.(iii) and (v) alone in page no.6 of the impugned order in respect of the Petitioner and consequently to direct the 2nd Respondent to treat the intervening period from the date of dismissal from service i.e. from 02.12.2016 or 03.12.2016 to 25.04.2017 as the "period spent on duty" for all purposes under final report.

For Petitioner : Mr.C.Sivanesan

For Respondents : Ms.J.Priscilla Pandian, CGSC

ORDER

1. This Writ Petition has been filed to issue a to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 1st Respondent, dated 26.04.2017, made in No.R.XIII-2/2017-(77)-EC-3(R/BLR)



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and to quash the same in so far as the finding Nos.(iii) and (v) alone in page no.6 of the impugned order in respect of the Petitioner and consequently to direct the 2nd Respondent to treat the intervening period from the date of dismissal from service i.e. from 02.12.2016 or 03.12.2016 to 25.04.2017 as the “period spent on duty” for all purposes under FR.

2. The Petitioner had joined the services of the Respondent Police on 09.05.2007. By order dated, 21.06.2014, the Petitioner along with another delinquent have been charged with the following charges:-

“Article I: That, said No.050580044 CT/Bug Satheesh Kumar S. and No.075031336 CT/GD R.Monikandan of D/77 Bn., CRPF while functioning as Constable (BUG/GD), in that they have committed an act of misconduct in their capacity as a member of the Force under Section 11(1) of CRPF Act, 1949, in that they purchased Alcohol from outside and brought to barrack and consume while on active duty on 10/03/2014 in the evening, which is prejudicial to the good order and discipline of the Force and an act unbecoming of Government servants.

Article II: That, said No.050580044 Court/Bug Satheesh Kumar S. and No.075031336 Court/GD R.Monikandan of D/77 Bn., CRPF while functioning as Constable (BUG/GD), in that they have committed an act of misconduct in their capacity as a member of the Force under Section 11(1) of CRPF Act, 1949, were consumed liquor in the lines on 10/03/2014 in the evening and fist fight each other. During the fight, both of them sustained injuries. No.075031336 CT/GD R.Monikandan has assaulted with a stone to No.050580044 CT/BUG Satheeh Kumar S. on his face and sustained injury nearby left eye brow. No.050580044 CT/BUG Satheesh Kumar. S. assaulted with a glass bottle to CT/GD R.Monikandan on his head and sustained head injury, which is prejudicial to the good order and discipline of the Force and an act unbecoming of Government servants.”

3. In the Departmental Enquiry, the above charges were held to be proved and the Petitioner was found guilty of the said charges and by order dated, 07.10.2014, the Petitioner was imposed with a punishment of removal from



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services. The Petitioner had challenged the order of removal, by preferring an appeal before the 1st Respondent and the said appeal was rejected by order dated, 15.12.2014 and the revision filed as against the same was also rejected by order dated 10.07.2015 of the 2nd Respondent.

4. Thereafter, on a mercy petition of the Petitioner, the Additional Director General, South Zone, CRPF, by order dated, 18.12.2015 had set aside the order of the 2nd Respondent and directed to reinstate the Petitioner into service, along with a direction to conduct a denovo enquiry on the charges levelled against the Petitioner. Subsequently, the Petitioner was reinstated into service on 01.02.2016 and a fresh enquiry was conducted by the 2nd Respondent and as many as three charges were framed against the Petitioner and the said charges were held to be proved and consequently, by order dated, 02.12.2016, the Petitioner was imposed with the major punishment of “dismissal from service”. On the appeal preferred as against the same, the 1st Respondent, by order dated 26.04.2017, had set aside the punishment of “dismissal from service” and imposed a lesser punishment of “stoppage of one increment for one year” with cumulative effect and treated the intervening period from 02.12.2016 to 26.04.2017 as “No work No pay”. Challenging the said order, this Writ Petition has been filed, seeking the relief as stated above.

5. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.

6. According to the learned counsel for the Petitioner, the order of removal has



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already been set aside on merits and a *denovo* enquiry has been conducted only for the reason that in the earlier enquiry proceedings, the Petitioner has been found guilty for some other charges, which were not even furnished to him.

7. Whatever may be the case. The Petitioner, who has been imposed with the capital punishment of removal from service, has been found guilty for one charge and accordingly, the punishment was reduced to “stoppage of one increment for one year” which is not disproportionate to the charges raised against the Petitioner.
8. In so far as the the order, regularising the intervening period from the date of removal is concerned, some indulgence is required. It is obviously because the *denovo* enquiry has been ordered only in view of the fact that there was some patent illegality in opting the order of punishment of removal from service. Earlier, the order of removal of service was imposed by taking into account of some other charges, which were not part of the disciplinary proceedings itself. When the entire proceedings were quashed and consequently, the Petitioner was reinstated into service, the natural consequence should be the regularisation of the intervening period of removal from service “as duty”. Only to this limited extent, the impugned order is liable to be set aside and with regard to the punishment of stoppage of one increment for year, has to be confirmed.
9. In fine, this Writ Petition is partly allowed. The impugned order, in so far as the treating the intervening period of removal of service between 02.12.2016



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to 25.04.2017 as “No work No pay” alone, is set aside and the said period is ordered to be treated as “period spent on duty” with all other back wages and attendant benefits. In all other aspects, the impugned order shall stand unaltered. No costs.

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Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Srcm

To

1. The Deputy Inspector General of Police, Bangalore Range, CRPF, Bangalore
2. The Commandant-77BN, CRPF, Poonamallee, Chennai-56



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R.N.MANJULA, J.

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