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W.P.No.13707 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

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THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No.13707 of 2018
and WMP.No.16167 of 2018

G.Krishnamoorthy

... Petitioner

Vs.

1.The Union of India
Rep by its Secretary to Government
Ministry of Home Affairs
New Delhi – 1.

2.The Director General
Central Reserve Police Force
CGO Complex, Lodhi Road,
New Delhi – 110003.

3.The Inspector General of Police,
Central Reserve Police Force Range Head Quarters,
Taralu at Group Centre CRPF
Bangalore, Karnataka – 560 064.

4.The Deputy Inspector General Of Police
Central Reserve Police Force Range,
Taralu at Group Centre CRPF,
Bangalore, Karnataka – 560 064.

5.The Commandant
67 Battalion,
Central Reserve Police Force,
Polo Ground, Shillong, Meghalaya – 793 001.

... Respondents



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Prayer : Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 5th respondent dated 17.11.2017 in the Office Order No.D-V-1/2017-E.C-1 and the order dated 13.02.2018 in his order No.D.V-1/2017-67-EC-I and quash the same and to direct the respondents by taking the petitioner into the strength of CRPF as constable to refer the case of the petitioner to the Medical Invalidation Board.

For Petitioner : Mr.M.Md.Ibrahim Ali.

For Respondents : Mr.Madan Gopal Rao, SPC.

ORDER

Heard the learned counsel for the petitioner and the learned standing counsel for the respondents and perused the materials available on record.

2. The case of the petitioner is that he joined as Constable in the CRPF in the year 2005 and served all over India for 13years. In the year 2016, during the course of employment, the petitioner was mentally affected by depression and took treatment in the base Hospital. The petitioner was transferred from Chattisgarh to Meghalaya and thereby the depression further deteriorated. Under the said circumstances, the petitioner submitted an application for discharge, thereafter on 08.01.2018 a representation was submitted to the 4th respondent seeking withdrawal of the discharge with a request to reinstate him in service. Thereafter, the 5th respondent passed an order on 13.02.2018, rejecting the request of the petitioner.

Aggrieved by the same, the present writ petition has been filed by the petitioner.



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3. On behalf of the respondents a counter affidavit has been filed, it is stated in the counter affidavit that the petitioner was appointed as constable in CRPF on 23.11.2005 and he reported in 67 BN CRPF Shillong and on transfer from 230 BN CRPF Dantewada, Chattisgarh on 13.11.2017 A.N. As per the medical report dated 20.03.2017 of Composite Hospital, CRPF, Hyderabad, the petitioner was a case of Bipolar Disorder and placed as S3(T-24) medical category. Considering his health condition, he was admitted in unit hospital on 17.11.2017 for treatment/meditation.

4. Whiles, on 17.11.2017, the petitioner demanded to discharge from unit hospital immediately as he wanted to submit an application along with an undertaking certificate for proceeding on discharge from service w.e.f. 17.11.2017, due to domestic problems. The petitioner was personally heard and counselled by apprisingly likely hardships he could face after discharge from service by the Commandant 67 BN CRPF. But the petitioner insisted to proceed on discharge from service immediately, since, he was missing the family and unwilling to stay far away from the family. It is further stated that the petitioner neither willing to proceed to the Composite Hospital, CRPF, Guwahati nor decided to participate in invalidation process, but he was in adamant to go home if discharged from service. Due to compulsion of the petitioner, he was discharged from service w.e.f. 17.11.2017



(A.N.) and the same was accepted by the competent authority vide Commandant 67 BN, CRPF Office Order No.D.V-1/2017-EC-1 dated 17.11.2017, to facilitate, two personnel were accompanied him up to his home town viz., Tamil Nadu as requested by the petitioner.

5. It is further averred in the counter affidavit, on 22.01.2018 an application without date addressed to DIGP, CRPF Range, Taralu, Karnataka / 4th respondent submitted by the petitioner requesting to reinstate him into service as per Rule 26 of CCS (Pension) Rules and the same was forwarded to DIGP Range CRPF @ Shillong, Meghalaya, with a direction to examine his request in accordance with Rule 26(4) of CCS (Pension) rules 1972 and to take necessary action as deemed fit and also asked to inform the position to the petitioner vide his letter No.D.I-1/2018-R/T-EC-I dated 22.01.2018 and the same was received in 67 BN CRPF Shillong on 27.01.2018, requesting for reinstatement into service as per Rule 26 of CCS (Pension) Rules, 1972 was examined by the 5th respondent and after careful consideration, it was felt that there was no material change in the circumstances that compelled the petitioner to apply for discharge from service, no public interest was also felt involved or served by permitting the withdrawal of discharge and thus the request was not accepted by the competent authority. Accordingly, the position was conveyed to the petitioner at Bangalore address as given by him, under intimation to



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DIGP, CRPF Range, Taralu vide Commandant 67 BN CRPF, Shillong / 5th respondent vide letter No.D.V-1/2017-67-EC-I dated 13.02.2018.

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6. Subsequently, the petitioner has sent another representation dated 31.01.2018 addressed to the Commandant 67 BN CRPF requesting for reinstatement in service, since decision taken on his similar request and it is conveyed to the petitioner on 13.02.2018 and the representation dated 31.01.2018 was kept in record.

7. The learned counsel for the petitioner submits that the 3rd respondent without considering the representation of the petitioner has rejected the same on 13.02.2018, hence, the impugned order passed by the 5th respondent on 17.11.2017 and 13.02.2018 are liable to be set aside. The learned counsel further submits that the petitioner is taking treatment for ailment in his native place and he is facing irreparable financial loss and hardship, since the petitioner's family consists of aged parents, wife and two children. Considering the fact that the petitioner is only bread winner of the family and the last grade employee, hence the learned counsel prays to set aside the impugned order and sought direction to reinstate the petitioner.

8. On the other hand, the learned standing counsel for the respondents submits that the petitioner was medically categorised as S3 (T-24) and he remained under



treatment at the Composite Hospital CRPF Hyderabad from 05.02.2016 to 15.03.2016 where he was diagnosed as a case of Acute Psychosis. The petitioner was discharged from the Composite Hospital CRPF Hyderabad on 15.03.2016 by declaring him fit for light duties without firearms and also advised to review after six months with behaviour report. The petitioner was continuously under treatment at Composite Hospital, CRPF, Hyderabad and Bangalore. The petitioner was transferred to 67 BN CRPF Shillong and he reported on 13.11.2017 A.N., on evaluating his health condition, he was admitted in Unit Hospital on 17.11.2017 for treatment. On the same day, the petitioner demanded to discharge from the unit Hospital as he desired to submit application along with undertaking certificate for proceeding on discharge from service w.e.f. 17.11.2017 due to domestic problems. Before discharging, the petitioner was personally heard and counselled by the Commandant 67 BN CRPF.

9. The learned counsel also submitted that during the month of January 2016, a Court of inquiry was ordered to enquire under which circumstance, the Telescopic Sight and railway warrants issued to him by commandant 230 BN CRPF, for his to and fro was lost by the petitioner. In the final order issued on 19.03.2018, after enquiry the petitioner was held responsible for unauthorisedly absent from duty for proceeding to his hometown on way back from Marksmanship course without prior



permission or sanction of leave by competent authority and entering into a fight with civilians reportedly getting injured and losing of Daylight Telescopic Sight. Accordingly, recovery of the cost of telescopic was effected from his pay and allowances.

10. The learned counsel further submits that the petitioner's discharge was accepted under Rule 16(a) and Rule 17 of CRPF Rules, 1955 and not under Rule 26(4) of CCS (Pension) Rules. As such, the contention of the petitioner is incorrect and baseless.

11. The learned counsel submits that because of adamant stand of the petitioner, he was discharged from service with effect from 17.11.2017. The petitioner without representing his case before the Inspector General of Police, CRPF, Karnataka & Kerala Sector, Bangalore / 3rd respondent herein, approached this Court by filing this writ petition. Finally, the learned standing counsel submits that the petitioner may be directed to represent his grievance before the Inspector General of Police, CRPF, Karnataka & Kerala Sector at Group Centre, CRPF, Bangalore (Karnataka) - 560064 / 3rd respondent herein so as to consider appropriately.



12. This Court gave serious consideration to the arguments advanced by the learned counsel on either side and carefully perused the materials available on record.

13. It is an admitted fact that the petitioner was discharged from service on his own request by the competent authority w.e.f. 17.11.2017. The petitioner also submitted his representation on 22.01.2018 to the Inspector General of Police, CRPF, Range Head Quarters, Taralu, Bangalore (Karnataka) – 560 064 / 4th respondent herein requesting him to reinstate into service. The request of the petitioner was examined by the 5th respondent and the request was not accepted by the competent authority and the same was conveyed to the petitioner. Once again, the petitioner submitted a representation dated 31.01.2018 to the Commandant 67 BN CRPF, Shillong, Meghalaya / 5th respondent requesting for reinstatement and the same was kept on record, stating that the similar request was already rejected and conveyed to the petitioner.

14. In view of the facts and circumstances of the case, this Court cannot found fault with the orders impugned in this writ petition, which were issued by the competent authority. It appears that the petitioner is responsible for his pathetic condition, after discharge from service, within two months the petitioner realised the necessity of employment to feed his family as he is only bread winner of the family.



15. It is the contention of the petitioner that he has been taking treatment for ailment in his native place. But the health condition of the petitioner at present is not known.

16. However, in the light of the statement made in the counter affidavit filed by the respondent that “the petitioner instead of filing the present writ petition, he ought to have represented his case before the 3rd respondent and he may be directed to represent his case before the 3rd respondent, so as to consider appropriately”, in the interest of justice it is appropriate to direct the petitioner to represent his grievance before the 3rd respondent stating the factual position.

17. In the considered opinion of this Court, interest of justice would be met by disposing the writ petition without going into the merits of the case, with a direction to the petitioner to represent his grievance before The Inspector General of Police, CRPF Range Head Quarters, Taralu at Group Centre CRPF, Bangalore, Karnataka – 560 064 / (i.e.) 3rd respondent herein.

18. Accordingly, this writ petition is disposed of with the following directions:-

(i) the petitioner shall represent his grievance to the 3rd respondent

herein within two weeks from the date of receipt of a copy of this order.



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(ii) on receipt of any such representation from the petitioner, the 3rd respondent herein is directed to consider the same appropriately by following due process of law and also on humanitarian grounds, within a period of three months thereon.

(iii) There shall be no order as to costs.

(iv) Consequently, connected miscellaneous petition is closed.

29.01.2024.

Index :Yes/No

Neutral Citation :Yes/No

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BATTU DEVANAND, J.

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