



WEB COPY



W.P.No.36505 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.36505 of 2023 and
WMP.No.36496 of 2023

Yatendra Singh

... Petitioner

Vs.

- 1.The Inspector General of Police,
Southern Sector,
Central Reserve Police Force(CRPF),
Road No.10-C, New MLA/MPs Colony,
Gayatri Hills, Jubilee Hills,
Hyderabad, Telangana 500 033
- 2.The Deputy Inspector General of Police,
Group Centre, Central Reserve Police Force(CRPF),
Avadi, Chennai 600 055
- 3.Neeraj Bala

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to the impugned order of the second respondent in P-VIII-1/2022-GC AVD-EC-II Dated, the 31 October, 2023 and quash the same and direct the respondents to complete the disciplinary proceedings within a period of 90 days as mandated in Standing Order No.02 of 2017.

For Petitioner : Mr.P.Manojkumar



W.P.No.36505 of 2023

For Respondents

For R1 & 2 : Mr.K.Srinivasamoorthy,

Senior Central Government Standing Counsel

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 31.10.2023 thereby cancelled the appointment of one, Shri.Vinod S.Jadhav as the petitioner's Defence Assistant to assist him in the enquiry proceedings.

2. The petitioner is working as Assistant Sub Inspector under the control of Deputy Inspector General of Police, Group Centre, Central Reserve Police Force, Avadi, Chennai. While being so, he was served with a charge memo containing two charges. Though the charge memo was later withdrawn, in respect of the complaints of sexual harassment, the Complaints Committee shall be deemed to be the enquiring authority appointed by the disciplinary authority. Accordingly, an enquiry officer was appointed and in the disciplinary proceedings, the petitioner requested to appoint one, Shri.Vinod S.Jadhav, a retired CRPF personnel



W.P.No.36505 of 2023

as his Defence Assistant in accordance with the permission of the enquiry officer. Accordingly, the enquiry officer permitted the petitioner to appoint him as Defence Assistant to assist in the disciplinary proceedings. By order dated 02.02.2023, one, Mr.J.Jayakumar was appointed as Presenting Officer. However, it was objected by the petitioner. Therefore, the second respondent by the communication dated 31.10.2023, cancelled its earlier order appointing Shri.Vinod S.Jadhav as the petitioner's Defence Counsel based on a clarification which provides that the Defence Assistant shall be member of the Force (including a person under suspension from the same unit / establishment below the rank of Assistant Commandant.

3. The learned counsel for the petitioner would submit that Clause (J) of Standing Order 2 of 2017 dated 12.07.2017 deals with the present context and accordingly, the petitioner is entitled to engage a Defence Assistant and the provisions relating to Defence Assistant as provided under Rule 14(8) of Central Civil Services(Classification, Control & Appeal) Rules, 1965 is made applicable. Accordingly, the



W.P.No.36505 of 2023

Government servant concerned may take the assistance of a retired Government servant subject to certain conditions.

4. Per contra, the learned Senior Central Government Standing Counsel appearing for respondents 1 & 2 submitted that the CCS(CCA) Rules is applicable as far as possible practicable in accordance with the procedure laid down. Further, the defence is, the charge officer is entitled to engage the Defence Assistant as per Rule 14(8) of CCS(CCA) Rules, 1965 and also other relevant instructions as applicable on the subject. The Defence Counsel appointed for the petitioner was cancelled as per the clarification dated 25.01.2023. As per the clarification, the Defence Assistant shall be member of the Force from the same unit/establishment or nearby unit / establishment, below the rank of Assistant Commandant. He also cited the circular order No.7 of 2018 dated 23.05.2018 and accordingly, Defence Assistant shall be a member of the Force (including a person under suspension) from the same unit / establishment or nearby unit / establishment below the rank of Assistant Commandant.



W.P.No.36505 of 2023

5. Heard, the learned counsel appearing on either side.

6. On perusal of the Rule 14(8) (b) of CCS(CCA) Rules, 1965, revealed that the Government servant may also take the assistance of a retired Government servant to present the case on his behalf, subject to such conditions as may be specified by the President from time to time by general or special order in this behalf. Accordingly, the petitioner was initially permitted to assist him by a retired Defence Assistant i.e. Shri.Vinod S.Jadhav by an order dated 02.02.2023. Subsequently, the petitioner objected the appointment of the enquiry officer and as such, once again without even issuance of any notice and without following the principles of natural justice, the appointment of the Defence Counsel to assist the petitioner was cancelled by the impugned order. That apart, no Government order, notification or circular can be substituted for statutory rules framed with the authority of law.

7. In view of the above, the impugned order cannot be sustained and the same is liable to be quashed. Accordingly, the



W.P.No.36505 of 2023

impugned order passed by the second respondent dated 31.10.2023 is quashed. The petitioner is permitted to take assistance of the Defence Assistant Shri.Vinod S.Jadhav during the enquiry. The respondents are directed to complete the disciplinary proceedings within a period of twelve weeks from today.

8. With the above observations, this writ petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

01.02.2024

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
lok



WEB COPY



W.P.No.36505 of 2023

To

- 1.The Inspector General of Police,
Southern Sector,
Central Reserve Police Force(CRPF),
Road No.10-C, New MLA/MPs Colony,
Gayatri Hills, Jubilee Hills,
Hyderabad, Telangana 500 033
- 2.The Deputy Inspector General of Police,
Group Centre, Central Reserve Police Force(CRPF),
Avadi, Chennai 600 055



WEB COPY



W.P.No.36505 of 2023

G.K.ILANTHIRAIYAN, J.

lok

W.P.No.36505 of 2023

01.02.2024