



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of decision: May 17, 2024

+ W.P.(C) 7128/2024 & CM. APPL. 29730/2024

(67) BALDEV GUJELA

..... Petitioner

Through: Ms. C.R. Jaya Sukin and Ms. Baby
Devi Bonia, Advs.

Versus

CENTRAL RESERVE POLICE FORCE
& ORS

..... Respondents

Through: Mr. Kavindra Gill, Sr. Panel Counsel
with Mr. Gokul Sharma, Govt.
Pleader.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE TARA VITASTA GANJU

V. KAMESWAR RAO, J. (ORAL)

CM. APPL. 29730/2024

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 7128/2024

1. This petition has been filed by the petitioner with the following prayers:

“In the facts and circumstances of the case, as mentioned above, it is, therefore, most humbly prayed that this Hon'ble Court may graciously be pleased:-

*1. Issue a WRIT OF MANDAMUS OR ANY OTHER
APPROPRIATE WRIT, ORDER OR DIRECTION TO THE*



RESPONDENTS No. 2 AND 3 TO REINSTATE THE PETITIONER IN SERVICE AND QUASH THE ORDER dated 10.2.2021 (P/8/2/2021-71-ESTI-2) PASSED BY THE RESPONDENT N03.

2. PASS ANY SUCH OTHER ORDERS AS IT MAY DEEM FIT TO THIS HON'BLE COURT IN THIS FACT AND CIRCUMSTANCES OF THE CASE."

2. The challenge in this petition is primarily to the order of dismissal from service dated February 10, 2021 passed by the respondents. In effect, the order dated February 10, 2021 reads as under:

“

4. Carefully studied the proceedings of the departmental investigation and the statements of the prosecution witnesses, evidence/documents and the above facts recorded therein. And it was found that the departmental inquiry was completed by the investigating officer as per the rules, keeping in mind all the instructions. Due to the accused Personnel not being present before the investigating Officer on any occasion of the investigation process, no action could be taken to admit or not admit the mistake on the part of the accused. The accused did not cooperate on any occasion in the investigation process. Therefore, I agree with the decision of the investigating officer and have come to the conclusion that the accused personnel, being a member of a highly disciplined force, has committed a heinous offense which is contrary to the discipline of the force and shows disregard for duty. The charges leveled against the accused personnel are proved beyond doubt for which he deserves punishment. Considering the seriousness of the crime committed by the accused personnel, he does not deserve any sympathy and the accused is not fit to be retained in a highly disciplined force like CRPF because such members are not



eligible for retention in a highly disciplined force like CRPF. This has an adverse effect on the efficiency and dignity of the force and damages the morale of disciplined personnel. Therefore, in judicious exercise of the powers conferred by Section 11 (1) of the CRPF Act 1949 r/w Chapter 6 (Discipline Rule 27) of Central Reserve Police Force Rules, 1955, I pass the following on the said departmental enquiry:

- i. Force 145281506 Constable/GD Baldev Gujela is sentenced to 'DISMISSAL FROM SERVICE' from the date of issue of this order i.e. 10/02/2021 (PM). Accordingly, the accused personnel is removed from the staff of this battalion with effect from the date of dismissal i.e. 10/02/2021 (PM).*
- ii. The period of unauthorized absence of the personnel from 17/01/2020 (AM) the date of issue of the order i.e. 10/02/2021 a total of 391 days is regularized as DIES NON.*
- iii. Force 145281506 Constable/GD Baldev Gujela, if he has received any medal or decoration during his service period; will be confiscated as per the provisions of Section 12 (1) of the CRPF Act 1949.*
- iv. If there is any remaining amount to be recovered from the personnel, it will be recovered from the amount payable in his favour, and deposited in the government treasury.*
- v. The identity card number 182/71 BN/2018 issued to the personnel is canceled with immediate effect. The cost of the said identity card, Rs 100/- (Rupees one hundred) only, should be recovered from the dues of the employee and deposited in the government treasury.*
- vi. The health card (issued for self and family) issued to the employee (Card No. 14821) is canceled with immediate effect.*
- vii. The kit items issued to the personnel should be classified by a board and if shortage of government material is found, then the recovery should be recovered from the dues of the personnel and deposited in the government treasury.*



viii. The arrest warrant issued against force number 145281506 constable/GD Baldev Gujela vide this office letter number W-2-1/2020-71-Estt.2 dated 12/02/2020 is canceled due to non-service.

5. Personal details of Force No. 145281506 constable/GO Baldev Gujela are as follows:-

01	Force Number, Rank and Name	145281506 CT/GD Baldev Gujela
02	Father's name	Shri Nand Kishore Gujela
03	Village	Tarana
04	Post Office	Tarana
05	Police Station	Tarana
06	District	Ujjain
07	State	Madhya Pradesh
08	Pin Code	456665
09	Identification mark	A black mole on right side of head

6. Force No. 145281506 Constable/GD Baldev Gujela is also informed that if he is not satisfied with this order, then he can file a complaint as per Rule 28 of Central Reserve Police Force Rules 1955 within one month from the date of issue of this order, and can submit his appeal before Deputy Inspector General of Police, Range Agartala, CRPF."

3. The case of the petitioner as contended by his counsel by conceding the fact that the petitioner remained absent for 391 days is that compassionate view be taken as the petitioner is without any source of livelihood. Noting the fact that the petitioner was working as a Constable in the CRPF and the absence of 391 days which is



effectively more than a year, we are of the view that no interference with the impugned order is called for. In fact, the finding of the investigating authority / disciplinary authority is that the petitioner disobeyed / neglected his duties and behaved laxity inasmuch, he was sent to participate in Navigation Skill Course between January 20, 2020 to March 16, 2020 at ToT School, Dharampur, Himachal Pradesh. He was relieved by his office at West Tripura on January 16, 2020 with instructions to report to the said Institute on time. The said office at Dharampur informed that the petitioner has not appeared in the Institute to participate in the Training. In fact, it was later found that he was neither at his original place of posting at West Tripura nor at Dharampur, but was at his home as informed by his father.

4. The petitioner had not cared to defend himself in the proceedings and the proceedings were *ex parte*. The investigation report submitted by the investigating authority was given to the petitioner to enable him to defend himself. Even after granting him 15 days time to make a representation on the same, the petitioner failed to submit his representation. It is on the basis of the report, the competent authority, i.e., the Commandant, 71 Bn., CRPF having no other alternative had imposed penalty of dismissal on the petitioner apart from giving other directions, which we have reproduced above.

5. That apart, we find that the petitioner has not availed the remedy of appeal. Even the representations made to the competent authority at Annexure P-16 and P-18 are also without contesting the findings of the investigating authority on merit.



2024:DHC:4047-DB



6. Accordingly, we find no merit in the petition. The same is dismissed.

V. KAMESWAR RAO, J

TARA VITASTA GANJU, J

MAY 17, 2024/jg

Signature Not Verified

Digitally Signed
By: JYOTIRMOY GHOSH
DASTIDAR
Signing Date: 20.05.2024
15:27:44

W.P.(C) 7128/2024

Page 6