

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.652 of 2022

In
Civil Writ Jurisdiction Case No.4479 of 2019

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Nitish Kumar s/o Naresh Singh Resident of Village- Police, P.S.- Parwalpur,
District- Nalanda.

... .. Appellant/s

Versus

1. The Union of India through Director General, Central Reserve Police Force, Ashiana Digha Road, Patna (Bihar) 800025.
2. The Inspector General, Central Reserve Police Force, Ashiana Digha Road, Patna (Bihar) 800025.
3. The Deputy Inspector General (Administration) Central Reserve Police Force, Muzaffarpur.
4. The Commandant 40 Battalion, Central Reserve Police Force, -(Jammu and Kashmir) at 56 APO.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Abhinav Shrivastava, Sr. Advocate.
	:	Mr. Surya Narayan Kumar, Advocate.
	:	Mr. Kr. Shanu, Advocate.
	:	Mr. Kr. Abhishek, Advocate.
	:	Mr. Shivesh Singh, Advocate.
For the Respondent/s	:	Mr. Amarendra Nath Verma, Sr. Panel Counsel.
	:	Mr. Rakesh Kumar Sinha, CGC.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 04-02-2025

1. Appellant has assailed the order of learned Single Judge dated 29.08.2022 passed in C.W.J.C. No.4479 of 2019.

2. Brief facts of the case are that appellant was appointed as a Constable in CRPF organization on 22.07.2004. In the year 2017 appellant was transferred to 40th Battalion,



Anantnag, Jammu and Kashmir. On 13.01.2018 there were certain alleged allegations leveled against the appellant to the tune of misusing mobile and he was arrested and sent to line custody for seven days. On the same day he had resigned the post held by him on 13.01.2018 which was accepted on 19.01.2018. Feeling aggrieved by the acceptance of resignation, appellant preferred C.W.J.C. No.4479 of 2019 and it was dismissed on 29.08.2022, hence the present L.P.A.

3. Learned counsel for the appellant submitted that during the intervening period from 13.01.2018 and 19.01.2018 the wife of appellant had submitted representation alleging that her husband-appellant is facing harassment at the hands of his superiors. This is evident from the fact that resignation dated 13.01.2018 was furnished under duress. In such circumstances, it was bounden duty of the accepting authority of resignation to provide one chance to the appellant whether has he furnished resignation under duress or any circumstances compelled him to file such representation or not, in view of the fact that appellant has rendered service for about 14 years and in all fairness that abruptly appellant had resigned his employment. In this regard, he has pointed out from the acceptance of resignation, there is no iota of material evidence. The same has not been appraised



by the learned Single Judge and proceeded to dismiss C.W.J.C.

It is also submitted that resignation accepting authority has failed to consider Rule 17-A of Central Reserve Police Force Rules, 1955.

4. The matter was heard on 28.01.2025 and we had passed the following order :-

“Respondents counsel is hereby directed to secure office notes prepared by the officials prior to acceptance of resignation of the appellant on 19.01.2018, so as to analyse or acceptance of resignation dated 19.01.2018 to the extent that the appellant has been provided an opportunity of re-thinking of his resignation and that he has not submitted resignation under any compulsion etc. Though, the acceptance of resignation refers to certain correspondence on 17.01.2018 and 19.01.2018, the appellant is stated to have been apprised before acceptance of resignation that it is not due to any compulsion.

2. In the acceptance of resignation dated 19.01.2018 letter or order it is only statement and it is not supported by the material information to the extent that the appellant has been provided an opportunity to say on acceptance of resignation dated 13.01.2018 during the intervening period 17.01.2018 and 19.01.2018. If the office notes are not available in that event what are the mode of communication to the appellant on 17.01.2018 and 19.01.2018 insofar as apprising him that he is not furnishing his resignation letter due to compulsion.

3. Re-list this matter on 04.02.2025.”

5. Today learned counsel for the respondents on instruction submitted that there is no material information



insofar as date mentioned in the impugned acceptance of resignation in particularly correspondence dated 17.01.2018 and 19.01.2018.

6. Having regard to the above facts and circumstances, in all fairness while accepting resignation, authority should have provided one opportunity to the appellant to the extent that he had furnished resignation under duress or due to any pressure, such opportunity has not been provided to the appellant. On the other hand, unnecessary in the acceptance of resignation communication dated 19.01.2018 there are reference to certain correspondence for the dates namely 17.01.2018 and 19.01.2018. That apart, records do not reveal whether appellant has been provided opportunity before acceptance of resignation dated 13.01.2018 on 19.01.2018, therefore, there is a non-application of mind and extraneous materials are incorporated in the impugned acceptance of resignation order/letter. To the above extent, learned Single Judge has committed error in not appreciating with original records. Therefore, the appellant has made out a case so as to interfere with the acceptance of resignation and order of learned Single Judge dated 29.08.2022 passed in C.W.J.C. No.4479 of 2019 and they are set-aside.



7. Having regard to the age of the appellant, concerned respondent is hereby directed to accept the duty report of the appellant within a period of one month from the date of receipt of this order. We have made it clear that appellant is entitled to only 50% of the backwages during the intervening period from the date of acceptance of resignation namely 19.01.2018 till posting is provided within a period of one month. If his posting is provided beyond one month, in that event appellant is entitled to entire salary attached to the post after one month from today.

8. Accordingly, the present L.P.A. stands allowed.

9. Pending Interlocutory Application(s), if any, stands disposed of.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.02.2025
Transmission Date	NA

