



W.P.No.37155 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 06.03.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.37155 of 2015

P.Saravanan,
S/o.Perumal

... Petitioner

Vs.

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

2.The Director General,
Central Reserve Police Force,
CGO Complex, Lodhi Road,
New Delhi – 110 003.

3.The Inspector General of Police,
Central Reserve Police Force,
Southern Sector, Hyderabad,
Telengana State.

4.The Deputy Inspector General of Police,
Range Head Quarters,
Central Reserve Police Force,
Bangalore (Chennai at Location)

5.The Commandant,
77 Battalion,
Central Reserve Police Force,
Poonamallee,
Chennai – 600 056.

... Respondents



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Prayer: Writ Petition 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 3rd respondent in his Order No.R.XIII-52/2015-ADM-7, dated 19.10.2015 received by the petitioner on 06.11.2015 confirming the Order of the 4th respondent in his Order No.R.XIII.06/2015-EC.3 dated 22.04.2015 and confirming the Impugned Office Order No.P.VIII-3/2012-77-EC-II, dated 06.06.2013 passed by the 5th respondent herein and quash the same and to direct the respondents to take the petitioner into the strength of CRPF as Constable with all monetary benefits.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.C.Samivel
Senior Panel Central Government
Standing Counsel (SPCGSC)

ORDER

In this Writ Petition, the Petitioner has challenged the Impugned Orders passed by the 3rd, 4th and 5th Respondents. The details of the Impugned Orders passed by the 3rd, 4th and 5th Respondents are as under:-

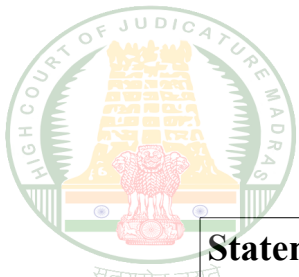
Sl. No.	Order No.	Date of passing of the order	Administrative Head/Officer who passed the order
1	P.VIII-3/2012-77-EC-II	06.06.2013	5 th Respondent
2	R.XIII.06/2015-EC.3	22.04.2015	4 th Respondent
3	No.R.XIII-52/2015-Adm-7	19.10.2015	3 rd Respondent



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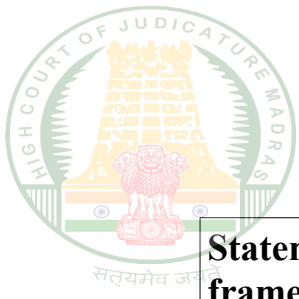
WEB COP 2. The background of the aforesaid Impugned Orders is the Memorandum of Charges dated 19.11.2012 issued to the Petitioner by the 5th Respondent. The charges against the Petitioner in the aforesaid Memorandum of Charges dated 19.11.2012 issued by the 5th Respondent are as under:-

Statement of Article of Charges framed against No.045031134 CT/GD P.Saravanan of F/77 BN CRPF	Statement of Imputation of Indiscipline / Misconduct in support of the Article of Charges framed against No.045031134 CT/GD P.Saravanan of F/77 BN CRPF
<u>Article-I</u> That, said No.045031134 CT/GD P.Saravanan of F/77 Bn CRPF while functioning as CT/GD committed an act of misconduct in his capacity as a member of the force under Section 11(1) of CRPF Act, 1949 in that he did not repeat for duty on 18/11/2011 (FN) after expiry of 60 days Earned Leave with effect from 19/09/2011 to 17/11/2011 and overstaying from leave without proper sanction / permission from the competent authority which is prejudicial to good order and discipline of the force.	<u>Article-I</u> No.045031134 CT/GD P.Saravanan of F/77 Bn CRPF was sanctioned 60 days Earned Leave with effect from 19/09/2011 to 17/11/2011. Accordingly, he was due to report for duty on 18/11/2011 (FN). He did not report for duty and continue to overstay from leave without prior sanction / permission from the competent authority. Thus, No.045031134 CT/GD P.Saravanan of F/77 Bn CRPF committed an act of misconduct in his capacity as a member of the Force which is punishable under Section 11(1) of CRPF Act, 1949 read with Rule 27 of CRPF Rules, 1955.
<u>Article-II</u> That, the said No.045031134 CT/GD P.Saravanan of F/77 Bn	<u>Article-II</u> No.045031134 CT/GD P.Saravanan of F/77 Bn CRPF was sanctioned 60



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Statement of Article of Charges framed against No.045031134 CT/GD P.Saravanan of F/77 BN CRPF	Statement of Imputation of Indiscipline / Misconduct in support of the Article of Charges framed against No.045031134 CT/GD P.Saravanan of F/77 BN CRPF
CRPF while functioning as CT/GD committed an act of misconduct in his capacity as a member of the force under Section 11(1) of CRPF Act, 1949 in that he did not comply with the directions / orders of the OC-F/77 Bn. vide his letter No.L.II-2/2011-12-F/77 dated 29/11/2011, and subsequent reminders dated 09/12/2011 and 19/12/2011 and Commandant-77 Bn. letter No.L.II-6/2012-77-EC-II dated 11/01/2012 and reminder dated 14/03/2012 directing him to report for duty forthwith. Thus, he has committed an act of misconduct which is prejudicial to good order and discipline of the force.	days Earned Leave with effect from 19/09/2011 to 17/11/2011. He was due to report back for duty on 18/11/2011 (FN), but the individual did not report for duty on due date and individual has informed telephonically to OC-F/77 Bn he is suffering from piles and requesting for extension of leave. OC-F/77 has directed to send proper application to Unit HQR and info to F Coy and also directed to him after completion of medical treatment may be produced all medical documents to office but, individual not submitted any application to this office of his Coy and overstaying with effect from 18/11/2011 (FN). But, individual not reported for duties, nor any further communication was received from his side. Hence, vide Letter No.L.II-2/2011-12-F/77 dated 29/11/2011 he was directed to report for duty immediately which he did not comply. Despite directions issued by the OC F/77 Bn vide Letter No.L.II-2/2011-12-F/77 dated 09/12/2011 and subsequent reminders dated 19/12/2011 and Commandant-77 Bn letter No.L.II-6/2012-77-EC-II dated 11/01/2012 and reminder dated 14/03/2012



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	directing him to report for duty, he continue to remain absent with effect from 18/11/2011 (FN). Thus, No.045031134 CT/GD P.Saravanan of F/77 Bn CRPF has committed an act of misconduct in his capacity as a member of the force by disobeying the lawful orders of his superior officer which is punishable under Section 11(1) of CRPF Act, 1949 read with Rule 27 of CRPF Rules, 1955.

3. Pursuant to the aforesaid Memorandum of Charges dated 19.11.2012, an inquiry was held and a Warrant of Arrest was issued to the Petitioner after which the Petitioner was arrested on 28.12.2012 and released on 29.12.2012. The Petitioner pleaded guilty to the charges framed against him in the Memorandum of Charges dated 19.11.2012.

4. The Inquiry Officer had also given an opportunity to the Petitioner to submit his defense witness if any and recorded the statement of the Petitioner. The Inquiry Officer also recorded the statements of 6 prosecution witnesses



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during the disciplinary proceedings. The 5th Respondent ultimately came to a conclusion vide Order dated 06.06.2013 that the charges framed against the Petitioner in Memorandum of Charges dated 19.11.2012 were made out as the Petitioner has failed to furnish any document to substantiate that either the Petitioner was suffering from depression or that he was proceeded in a matrimonial dispute and that a Hindu Marriage Original Petition (HMOP) was preferred before the Sub Court in Ariyalur or that criminal proceeding was pending against the Petitioner before the Judicial Magistrate's Court, Ariyalur.

5. The 5th Respondent thus terminated the services of the Petitioner and ordered as follows:-

“7. Keeping in view of the above, after careful examination all the pros and cons of the case, I have come to the conclusion that charges framed against No.045031134 CT/GD P.Saravanan of F/77 Bn., CRPF under Article-I and Article-II stands fully proved beyond any shadow of doubt and found him guilty of misconduct in his capacity as a member of the force. No.045031134 CT/GD P.Saravanan of F/77 Bn., CRPF is overstaying from leave without a valid reason with effect from 18/11/2011 to 28/12/2012 for a period of 407 days and not found a fit person to be retained in service in a disciplined force like CRPF. I, therefore, in exercise of the powers vested upon me under Section 11(1) of CRPF Act, 1949 read with Rule 27 of CRPF Rules, 1955, hereby impose the punishment of “REMOVAL FROM SERVICE” with effect from the date of issue of the order i.e., 06/06/2013(AN) upon



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No.045031134 CT/GD P.Saravanan of F/77 Bn., CRPF. Accordingly, he stands struck off the strength of this unit from the same date i.e., 06/06/2013(AN).

8. Further, the following orders are also hereby passed:-
- His period of unauthorized absence from duty with effect from 18/11/2011 to 28/12/2012(AN) total 407 days is regularized as “DIES NON” for all purposes. He will not be entitled for any pay and allowances or any service benefits for the above period.
 - All the medal and decorations, if any earned by the charged official during the period of his service in the Force are also hereby forfeited under the provision of Section 12(1) of CRPF Act, 1949.
 - Government dues, if any outstanding against him should be adjusted from the dues payable to him and credited into the Govt. treasury.
9. His particulars are as under:-

Force No., Rank and Name	045031134 CT/GD P.Saravanan
Father's Name	Shri.K.Perumal
Village	Thularankurichy
Post	Udaiyarpalayam
Police Station & Teshil	Udaiyarpalayam
District	Perambalur
State	Tamil Nadu
Pin	621894
Date of Birth	25/05/1982
Date of Enlistment	28/09/2004
Height	172 Cms
Eye & Hair colour	Black
Identification Marks	i. A black mole on back side of neck ii. A cut mark on the right



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Force No., Rank and Name	045031134 CT/GD P.Saravanan
	side of cheek

10. In accordance with Rule 28 of CRPF Rules, 1955, the above delinquent has the right to prefer an appeal to the appellant authority i.e., The DIGP, Range HQR, CRPF, Bangalore within 30 days of receipt of this order.”

6. Aggrieved by the aforesaid Order dated 06.06.2013 of the 5th Respondent, the Petitioner had earlier filed a Writ Petition before this Court in W.P.No.27670 of 2013. By an order dated 28.11.2014, the said Writ Petition was dismissed with liberty to the Petitioner to challenge the aforesaid Punishment Order dated 06.06.2013 passed by the 5th Respondent by way of a Statutory Appeal.

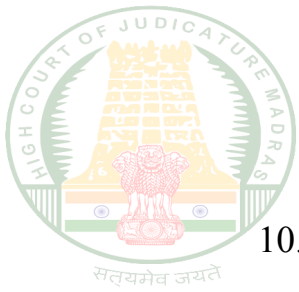
7. The Petitioner therefore filed an appeal before the 4th Respondent. The 4th Respondent vide Order No.R.XIII.06/2015-EC.3 dated 22.04.2015, relying on Inquiry Officer's Report dismissed the appeal preferred by the Petitioner recording the fact that the Petitioner failed to defend himself inspite of being afforded with ample opportunity to defend himself in the course of inquiry proceedings by the Inquiry Officer.



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WEB COPY 8. The 4th Respondent has further come to a conclusion that even before the 4th Respondent, the Petitioner had not brought out any mitigating facts or material evidence worth consideration other than what has already been averred in the inquiry proceedings before the Inquiry Officer and that there was no merit in the appeal filed by the Petitioner. Therefore, the appeal was dismissed in terms of Rule 28 of the Central Reserve Police Force (CRPF) Rules, 1955.

9. Aggrieved by the aforesaid Order dated 22.04.2015 of the 4th Respondent, revision was preferred by the Petitioner before the 3rd Respondent which was also dismissed by the 3rd Respondent vide Order No.R.XIII-52/2015-Adm-7 dated 19.10.2015. The 3rd Respondent had also concluded that the Petitioner had not brought out any new facts or material evidence worth consideration to substantiate the case for reconsideration of the Order passed by the 5th Respondent and the 4th Respondent pursuant to the inquiry proceedings. Hence, the Order dated 06.06.2013 passed by the 5th Respondent which was affirmed by the 4th Respondent vide Order dated 22.04.2015 which was confirmed by the 3rd Respondent in the Order dated 19.10.2015.



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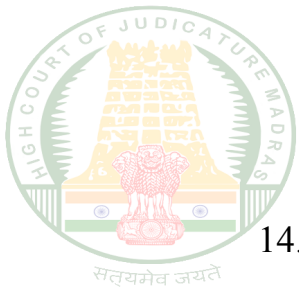
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10. Challenging the aforesaid Impugned Orders passed by the Respondents, the Petitioner has filed this Writ Petition on the ground that the entire inquiry proceedings were conducted in Hindi language and was therefore vitiated on the ground of violation of principles of natural justice.

11. It is the further case of the Petitioner that the Petitioner was declared as “Deserter” vide Order dated 27.06.2012 bearing No.I.X-03/2012-77-EC-II and that the Tamil Nadu Police apprehended the Petitioner and had produced the Petitioner before the 5th Respondent on 29.12.2012.

12. It is submitted that thereafter the warrant of arrest was cancelled and the reasons for overstaying was satisfactorily explained by the Petitioner. However, without taking into consideration of the same, the Impugned Punishment Order was passed by the 5th Respondent which was affirmed by the 4th and 3rd Respondents in the above mentioned Impugned Orders.

13. It is case of the Petitioner that the salary for the period between 28.12.2012 and 06.06.2013 has also not been paid and that there was no Suspension Order passed by the 4th Respondent.

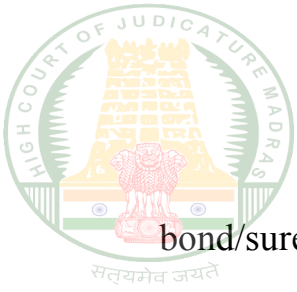


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14. Learned counsel for the Petitioner would submit that under similar circumstances, this Court has interfered with several orders dismissing Petitioners from service in lieu of being harsh and disproportionate for the purported misconduct and have remitted the cases back to the authorities to award lesser punishment. Hence, the learned counsel for the Petitioner would submit that similar relief be given to the Petitioner as the punishment of terminating the services of the Petitioner was disproportionate to the charges framed against the Petitioner in Memorandum of Charges dated 19.11.2012. Therefore, it is submitted that the Petitioner shall be awarded with lesser punishment.

15. Defending the Impugned Orders, the learned Senior Panel Central Government Standing Counsel (SPCGSC) for the Respondents would submit that the Impugned Orders passed by the 5th, 4th and 3rd Respondents are well-reasoned and does not warrant any interference under Article 226 of the Constitution of India.

16. It is submitted that the Petitioner had absented himself for almost 407 days and was arrested on 28.12.2012 and thereafter released by personal



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bond/surety on 29.12.2022. It is submitted that the Petitioner had not produced any evidence to substantiate that after extending the sanctioned leave between 19.09.2011 and 17.11.2011, the Petitioner had any reasons to justify his absence from forenoon on 18.11.2011. Hence, prays for dismissal of this Writ Petition.

17. I have heard the learned counsel for the Petitioner and the learned Senior Panel Central Government Standing Counsel (SPCGSC) for the Respondents.

18. The argument of the Petitioner that there has been gross violation of Principles of Natural Justice, as the inquiry proceedings were conducted in Hindi language cannot be countenanced as the Petitioner was appointed in the year 2004 i.e., on 28.09.2004 and was serving as a constable with the Central Unit Establishment namely Central Reserve Police Force (CRPF).

19. The fact remains that the Petitioner had taken leave between 19.09.2011 and 17.11.2011 from service for 60 days. The Petitioner was to report to duty on 18.11.2011 in the forenoon, however, he failed to report to



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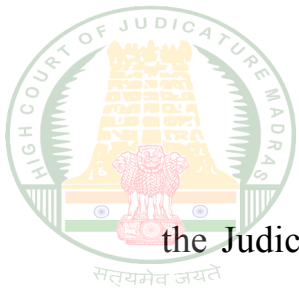
duty on 18.11.2011. Thus, the Petitioner was arrested on 28.12.2012 and

thereafter released by personal bond/surety on 29.12.2012.

20. An inquiry proceeding was conducted wherein, the Petitioner admitted to the charges framed against him in the Memorandum of Charges dated 19.11.2012 and thus, it was not open for the Petitioner to state that there was any violation of Principles of Natural Justice at a later stage. In any event, the Respondents have also conducted an inquiry and a copy of the Inquiry Report was given to the Petitioner on 04.05.2013. Thereafter, the Petitioner responded to the Inquiry Report on 23.05.2013 which was received by the Office of the 5th Respondent on 27.05.2013.

21. Thus, it cannot be said that the Petitioner was not given adequate or ample opportunity to defend himself in the disciplinary proceedings initiated by the 5th Respondent and that the confirmation of the disciplinary proceedings by the 4th and 3rd Respondent was incorrect.

22. The Petitioner has stated that the Petitioner was facing matrimonial dispute before the Sub Court, Ariyalur and that he was also proceeded before



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the Judicial Magistrate's Court, Ariyalur at the behest of his wife. However,

there are no sufficient documents before this Court to substantiate the same. In fact, these documents were also not produced either before the 5th Respondent or before the 4th Respondent or before the 3rd Respondent at each of the Stage of the inquiry proceedings.

23. If indeed the Petitioner was proceeded by his wife in a matrimonial dispute in Sub Court, Ariyalur and criminally before the Judicial Magistrate's Court, Ariyalur, it was incumbent on the part of the Petitioner to have produced the same before the Respondents and as also before this Court. There are no documents filed by the Petitioner in this regard before this Court today also.

24. However, if the Petitioner had been proceeded before the Judicial Magistrate's Court, Ariyalur and as also before the Sub Court, Ariyalur in a matrimonial dispute, the Petitioner may have had a case for awarding of lesser punishment although the presence of the Petitioner would be required as he is concerned with the Department under the Ministry of Home Affairs dealing with security of the nation.

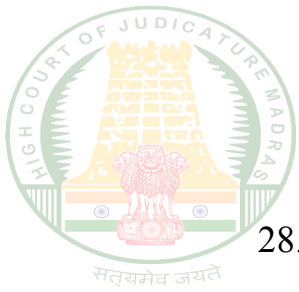


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WEB COP 25. Since the Petitioner was arrested and has not produced any documents either before this Court or before the lower authorities, I am inclined to give liberty to the Petitioner to approach the 3rd Respondent with all evidences to substantiate that the Petitioner was dealing with depression and that indeed there was a matrimonial dispute with his wife and that he was being proceeded before the Sub Court, Ariyalur and criminally before the Judicial Magistrate's Court, Ariyalur.

26. Therefore, this Court is inclined to give partial relief to the Petitioner by quashing the Order dated 19.10.2015 passed by the 3rd Respondent and remits the case back to the 3rd Respondent to pass a fresh order within a period of 3 months from the date of the receipt of a copy of this order.

27. The Petitioner shall file all the evidences which the Petitioner may have within a period of 1 month from the date of the receipt of a copy of this order.



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28. In case the Petitioner fails to produce any evidence to substantiate that the Petitioner indeed was undergoing matrimonial dispute both before the Sub Court, Ariyalur and before the Judicial Magistrate's Court, Ariyalur and/or was also under the treatment for depression, the 5th Respondent is at the liberty to reiterate the Order passed by the 3rd Respondent and the 4th Respondent.

29. With the above directions, this Writ Petition stands partly allowed.

No costs.

06.03.2025

Neutral Citation : Yes / No

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To:

- 1.The Secretary,
Government of India,
Ministry of Home Affairs,
New Delhi.
- 2.The Director General,
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