



W.P. No.20077 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2025

CORAM :

THE HONOURABLE Ms. JUSTICE **R.N.MANJULA**

W.P.No.20077 of 2019

R.Rajasekar

... Petitioner

Vs.

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

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

3.The Deputy Inspector General,
Central Reserve Police Force,
Main Branch,
Chandigarh.

4.The Commandant,
23rd Battalion,
Central Reserve Police Force,
Karan Nagar,
Sri Nagar,
Jammu & Kashmir

...Respondents



W.P. No.20077 of 2019

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 21.05.2018 in his letter No.R/13/4/18 Place 3 on the file of the 3rd respondent and quash the same and direct the respondents to reinstate the petitioner and grant such other relief deem fit.

For Petitioner : Mr.R.Rajarajan

For Respondents : Mr.K.Ramanamoorthy
Central Government Counsel

ORDER

The Writ Petition has been filed seeking to call for the records of the impugned order dated 21.05.2018 in Letter No.R/13/4/18 Place 3 on the file of the 3rd respondent, quash the same and direct the respondents to reinstate the petitioner.

2. The petitioner joined Central Reserve Police Force in the year 2005 and got married in the year 2015. After his wife deserted him, he fell into depression. The 4th respondent issued the impugned order to the petitioner on 28.03.2016 for vehicle collection and directed him to accompany the battalion to Chattisgarh and Bijaypur. However, the petitioner left the battalion on 15.04.2016 from Bijaypur.



WEB COPY

3. Due to mental depression, he was admitted to the Government Medical College Hospital, Tiruvarur and was given with the treatment from 02.09.2016 to 09.09.2016. He was admitted again in the Government hospital, Tiruvarur on 03.10.2016, where he was diagnosed with mental depression. The petitioner was issued with a medical certificate covering his period of absence from 10.10.2016 to 15.10.2016.

4. The petitioner left his home on 11.03.2017 and reached Jammu on 15.03.2017. However, he was not able to complete his journey due to a natural calamity along the way. The petitioner's father, who had accompanied him contacted the 4th respondent and informed him about the petitioner's medical condition. The 4th respondent advised the petitioner's father to take him back to his native place.

5. The petitioner's father died on 19.03.2017. Due to this, the petitioner was unable to join duty. Subsequently, he took treatment as an out patient from 10.10.2017 to 15.02.2018 and he was advised to join duty only on 15.02.2018. Before he could rejoin, an order dated 01.07.2017 was issued, stating that he was removed from service. The appeal filed by the petitioner



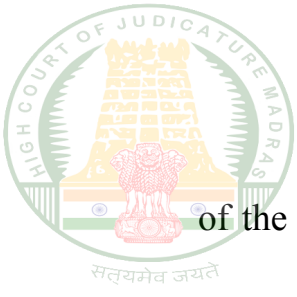
before the 3rd respondent was also rejected by confirming the order passed by the 4th respondent.

WEB COPY

6. The learned counsel appearing for the petitioner submitted that the petitioner's medical condition was not considered before passing the order and the decision was made based on the presumption that the petitioner had deserted service due to mental depression. According to the petitioner, his mental disability has not been considered under Section 20(4) of The Right of Persons with Disabilities Act, 2016 (hereinafter referred to as the RPWD Act) nor was the punishment proportionate to the alleged misconduct. Further, the petitioner's medical certificates were not considered.

7. The learned counsel appearing for the respondents submitted that the RPWD Act, does not apply to the petitioner's case; this Court does not have jurisdiction to entertain the writ petition, as the cause of action had arisen at Chattisgarh, where the petitioner was originally posted and in Jammu and Kashmir, where the office of the appellate authority is located. He further submitted that the issue of jurisdiction must be addressed before considering the merits of the case.

8. The learned counsel appearing for the petitioner claims that part



of the cause of action has arisen at Tiruvarur, where from the petitioner had correspondence with the respondents regarding his mental depression and other situations.

9. In support of his contention, the learned counsel for the petitioner referred the judgment of the Hon'ble Supreme Court in *Nawal Kishor Sharma Vs. Union of India and others* reported in *AIR 2014 SCC 3607*, where a seaman claimed disability compensation in Mumbai, had filed a writ petition in Patna High Court within whose jurisdiction he had received the communication. The petitioner while discharging his duties out side the territory of Bihar was declared unfit for service due to his heart ailment. A communication was sent to him stating that he would be entitled to receive compensation. However, the petitioner refused to receive the seaman's compensation. Subsequently, the Establishment Department of the Government of India issued an order cancelling his registration as a seaman.

10. In that case, since the petitioner was declared unfit and had returned back to his home in Gaya, where he submitted his representation and received the response, it was held that part of the cause of action arose there,



W.P. No.20077 of 2019

making it a valid jurisdiction for filing the writ petition. On this basis, the Patna High Court was found to have jurisdiction to entertain the writ petition.

WEB COPY

11. In the instant case, the petitioner was never discharged or found unfit for duty while he was deputed to Chattisgarh. The petitioner also did not leave Chattisgarh with permission from the controlling authority. Even according to his own submission, he left the battalion on his own volition and was later said to have admitted and treated in Government Medical College Hospital, Tiruvarur on 02.09.2016. It should be noted that the petitioner has left on 15.04.2016 and he was first admitted only on 02.09.2016. There is no explanation for his absence between 15.04.2016 and 02.09.2016.

12. It is not the case of the petitioner that he sent any communication to the respondents during this interim period. He was also issued with a medical certificate for a specific period by a medical officer. At no point of time the petitioner's mental depression had been categorized by any medical expert that it would amount to mental disability covered under the RPWD Act. Further, the petitioner did not produce any disability certificate to prove



that he had a disability as prescribed under the Act.

WEB COPY

13. The petitioner has stated that he was undergoing treatment as an out patient between 10.10.2017 and 15.02.2018. Prior to that, he claimed to have travelled to Kashmir along with his father on 15.03.2017, but did not reach his destination. However, there is no record to substantiate the petitioner's allegation that the 4th respondent had authorized his father to take the petitioner back to his native place. If such authorization has been given, it should be only through a written order.

14. In this case, there is no order as claimed by the petitioner has been produced. Therefore, his discharge from duty appears to have been due to his own volition. Even if it is accepted that the petitioner had suffered from some mental depression, it was not proved to be a mental disability covered under the RPWD Act, in order to render him unfit for service. Even according to the petitioner's own statements, there were periods not covered by medical treatment. Still he did not join duty.

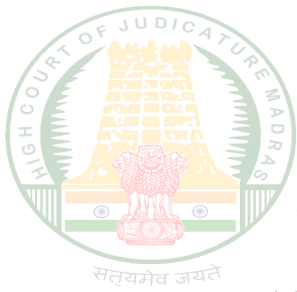
15. From 15.04.2016, when he left the battalion, he was treated at the medical hospital, Tiruvarur. There was absolutely no communication from the



petitioner. The period cannot be considered as anything other than desertion of duty. The petitioner, being a Constable in the CRPF, has a responsibility not to leave his work place without permission. The discipline required in such a service cannot be equated with that of a person working in a private establishment. The petitioner had chosen to leave on his own volition without informing the authorities or obtaining permission.

16. The petitioner first deserted his duty at Chattisgarh. Action has already been initiated by the concerned authorities at Chattisgarh. Hence, the cause of action of this for the writ petition has arisen only within the jurisdiction of Chattisgarh and Jammu and Kashmir. The petitioner cannot claim that the place where he received the communication is having the partial jurisdiction for filing this petition.

17. In the case of seaman, cited by the petitioner, he was declared unfit and subsequently removed from service. Thereafter, he attempted to establish communication, claiming it as the cause of action. However, the facts of the case differs from the present case and there is no valid cause of action falls within this Court's jurisdiction to entertain the writ petition.



WEB COPY

18. In this regard, I find it is relevant to cite the judgment of the Hon'ble Supreme Court in ***Union of India and others Vs. A.Shainamol and others*** reported in ***(2021) 20 SCC 267***. In the said case the Hon'ble Supreme Court has held as under:

*“46. The Full Bench of the Jurisdictional High Court in a judgment reported as **Nakul Deo Singh v. Deputy Commandant** was considering an Original Petition filed before the Kerala High Court by a Head Constable working in the Central Industrial Security Force Unit at Bokkaro Steel Plant. In the said case, the disciplinary authority and the appellate authority were situated outside the territorial jurisdiction of the High Court. The applicant claimed that since the order of appellate authority was received within the jurisdiction of the Kerala High Court, therefore, it will have the jurisdiction to entertain the Original Petition. The Court held as under:*

“29.It appears to us that the decisions in Swaika At best receipt of the order or communication only gives the party a right of action based on the cause of action arising out of the action complained of. When that action



WEB COPY



W.P. No.20077 of 2019

complained of takes place outside the territorial jurisdiction of the High Court and an appeal therefore is dismissed by an authority located outside the jurisdiction of the High Court cause of action wholly arises outside the jurisdiction of the High Court and Art. 226(2) of the Constitution cannot be invoked to sustain a Writ Petition in this High Court on the basis that a part of the cause of action has arisen within the jurisdiction of this court, merely because the appellate order communicated from the seat of the appellate authority was received while the petitioner was residing or working within the jurisdiction of this court Acceptance of the argument that the situs of the receipt of the order will determine the jurisdiction can lead to a position where a litigant would be in a position to choose his own court for the purpose of redressal of his grievance. All that he need do is to move over to a particular place for receiving the communication from the appellate authority and then approach the High



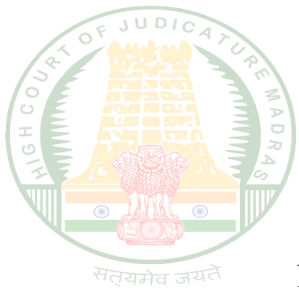
WEB COPY



W.P. No.20077 of 2019

Court of 22 1999 SCC OnLine Ker 366 35 that place with a plea that that court had jurisdiction because the order of the appellate authority was served on him while he was residing within the jurisdiction of that High Court No litigant can have a right to choose the court for seeking relief and the mere introduction of clause 2 of Art. 226 does not alter that position.”

47. It may be noticed that Union had not raised objection about the entertainment of an Original Application filed by the applicant before the Ernakulam Bench of the Central Administrative Tribunal. It appears that the applicant filed an application before the Ernakulam Bench for the reason that she was permanent resident in the State or may be for the reason, the order of allocation was received by her in the State of Kerala. Both of these reasons do not give rise to part of cause of action arising within the Jurisdiction of the Ernakulam Bench of Tribunal. At this stage, the applicant is not being non-suited on the ground that the Ernakulam Bench of the Tribunal had no jurisdiction.”



W.P. No.20077 of 2019

WEB COPY

19. As far as the other aspects are concerned, I do not find it appropriate to discuss except for the limited aspects of jurisdiction and as discussed already. Since the Court lacks jurisdiction to entertain this writ petition, the petition is not maintainable. However, the petitioner is at liberty to seek revision of any terminal benefits, if available.

20. In the result, this Writ Petition is dismissed and not maintainable.

No costs.

17.03.2025

rpl

Index : Yes/No

Speaking Order : Yes/No

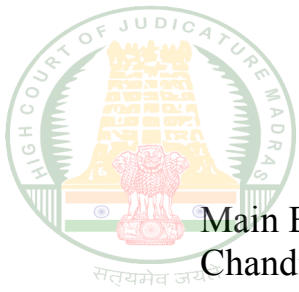
To:

1.The Secretary to Government,
Union of India,
Department of Home Affairs,
New Delhi.

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

3.The Deputy Inspector General,
Central Reserve Police Force,

Page No.12 of 14



Main Branch,
Chandigarh.

WEB COPY

4.The Commandant,
23rd Battalion,
Central Reserve Police Force,
Karan Nagar,
Sri Nagar,
Jammu & Kashmir



W.P. No.20077 of 2019

R.N.MANJULA,J.

rpl



WEB COPY



W.P. No.20077 of 2019

W.P.No.20077 of 2019

17.03.2025