



2025:DHC:859-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Reserved on: 14.01.2025
Pronounced on: 13.02.2025

+ **W.P.(C) 6158/2022**

EX-CT/WC PARDESHI JITENDRA SINGH OF 179 BN.

.....Petitioner

Through: Ms. Kristen Sleeth, Adv.
versus

UNION OF INDIA & ANR

.....Respondents

Through: Mr.Farman Ali, SPC with
Mr.Abhigyan Siddhant, GP,
Mr.Rohit Kumar & Ms.Usha
Jamnal, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

J U D G M E N T

NAVIN CHAWLA, J.

1. By way of the present petition filed under Articles 226 and 227 of the Constitution of India, the petitioner seeks following reliefs: -

“a). Issue any other writ, order or direction to respondents herein to set aside the order passed by the Office of Commandant-179 Battalion, C.R.P. Force, Sopore, Baramula, through-56 A.P.O. No.-P.Eight-02/2016-Per-Two-179 dated 22.08.2016; AND

b). Issue any other writ, order or direction to respondents herein to reinstate all the benefits to the petitioner which was provided during the tenure of service.”



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CASE OF THE PETITIONER:

2. It is the case of the petitioner that the petitioner was enlisted in the Central Reserve Police Force (hereinafter referred to as, 'CRPF') on 11.10.2013, in the rank of CT/WC. After completing basic training, the petitioner reported to his unit on 14.03.2014 and was subsequently posted to the HQ179.

3. It is the case of the petitioner that the petitioner was sanctioned earned leaves for 20 days from 20.11.2015 to 10.12.2015. Upon completion of the leave, the petitioner was required to report to the 179th Battalion, Jammu (T.C.), during the evening roll-call on 10.12.2015.

4. The petitioner claims that he was unable to report to the 179th Battalion, Jammu (T.C.) on 10.12.2015 during the evening roll-call due to poor health. The petitioner claims that he had sent relevant medical documents notifying the authorities of his medical condition and explaining the reasons for his absence by way of a Registered Speed Post dated 14.12.2015. However, the concerned authorities rejected the petitioner's explanation, claiming that no such documents or evidence of illness were received at the 179th Battalion Headquarters, nor was any postal receipt presented.

5. It is the case of the petitioner that the petitioner had been admitted to the CRPF 179th Battalion (Headquarters) Hospital from 27.07.2015 to 05.08.2015, where he was diagnosed with jaundice. The petitioner was subsequently granted medical leave for one month from 05.08.2015 to 05.09.2015.



6. It is the case of the petitioner that on 20.12.2015, the petitioner's wife gave birth to a child, and this information was duly communicated to the authorities. However, the petitioner's plea was disregarded, and the authorities treated the information as malicious and fabricated. The medical documents related to the petitioner's illness and the delivery certificate of his wife were also deemed doubtful and were not accepted as valid evidence.

7. It is the case of the petitioner that on 01.01.2016, the petitioner was admitted to the Cottage Hospital, Parola, District Jalgaon, due to his deteriorating health. He was diagnosed with infective hepatitis and was prescribed bed rest for 58 days from 02.01.2016 to 29.02.2016.

8. It is the case of the petitioner that on 05.01.2016, the petitioner received a letter from the CRPF 179th Battalion Headquarters. Due to his medical condition, he was unable to respond to the same. However, his mother maintained constant communication with the supervisor of the concerned department, regularly updating them on the petitioner's health through phone calls. Despite this, the authorities did not acknowledge the updates.

9. It is the case of the petitioner that the petitioner was later diagnosed with Malaria-Typhoid and was prescribed bed rest from 01.03.2016 to 30.04.2016. During this period, the petitioner received several letters from the CRPF, 179th Battalion Headquarters, dated 27.03.2016, 03.04.2016, 19.04.2016, and 25.04.2016.

10. The petitioner claims that on 28.04.2016, despite being on bed rest, the petitioner, along with his mother, wife, and two-month-old daughter, travelled to Jammu (T.C.) to report. However, upon



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reaching Srinagar, the petitioner's health deteriorated further, forcing him to return home without reporting to the 179th Battalion Headquarters.

11. It is the case of the petitioner that the petitioner's daughter, born on 20.12.2015, was diagnosed with malnutrition and a 3.2 mm hole in her heart on 30.03.2016. During this period, while his daughter was undergoing treatment, the petitioner was also suffering from malaria-typhoid and remained on bed rest. He notified the authorities about both his and his daughter's health conditions *via* Registered Speed Post dated 27.05.2016. However, the authorities did not accept the notification, claiming that no relevant medical documents or postal receipts were submitted, which the petitioner submits, shows *mala fide* intention on their part.

12. It is the case of the petitioner that the petitioner was not afforded an opportunity to be heard during the departmental proceedings, which were conducted *ex-parte*. Furthermore, he was not given sufficient time to submit evidence, including medical documents, the delivery certificate, and his daughter's medical report, all of which were disregarded by the authorities.

13. On 22.08.2016, the Office of the Commandant, 179th Battalion, CRPF, Sopore, Baramula, through 56 A.P.O., issued the Impugned Order (No. P.Eight-02/2016-Per-Two-179) dismissing the petitioner from service. It was alleged that the petitioner had been absent from duty without permission from 11.12.2015 onwards and had failed to present any reply, evidence, or witnesses before the inquiry officer.



14. The petitioner subsequently filed an appeal with the Appellate Authority, requesting for condonation of the delay. However, the appeal was dismissed on 10.05.2019 on the ground of it lacking merit.

15. Aggrieved by the Appellate Order, the petitioner filed a Revision Petition, requesting reinstatement in service or an alternative punishment. The said petition was also dismissed on 29.07. 2019.

16. The petitioner subsequently filed a representation against the Revision Order. However, the respondents dismissed the representation on 25.02.2020.

17. The petitioner has, therefore, approached this Court seeking setting aside of the Impugned Order passed by the Office of the Commandant, 179th Battalion, C.R.P.F, Sopore, Baramulla, dated 22.08.2016.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER:

18. The learned counsel for the petitioner submits that the petitioner was granted earned leave for a period of 20 days, from 20.11.2015 to 10.12.2015, and could not report for duty till the date of the Impugned Order due to genuine medical conditions and other unavoidable circumstances that had been communicated to the Competent Authority.

19. She submits that the petitioner's wife gave birth to their child on 20.12.2015, and that subsequently, the petitioner was diagnosed with infective hepatitis at Cottage Hospital, Parola, District Jalgaon, and was advised bed rest for a period of 58 days, from 02.01.2016 to 29.02.2016. Following this, the petitioner was further diagnosed with



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malaria-typhoid and was advised additional bed rest from 01.03.2016 to 30.04.2016 by the same hospital.

20. The learned counsel for the petitioner further submits that the petitioner's mother remained in constant communication with the Competent Authority, keeping them informed of the petitioner's circumstances.

21. She submits that on 28.04.2016, the petitioner, accompanied by his mother, wife, and two-month-old daughter, made an attempt to travel to Jammu (T.C.), however, due to his deteriorating health, the petitioner was compelled to return to his hometown. She further submits that the petitioner, on 27.05.2016, duly notified the Competent Authority *via* Registered Speed Post regarding his own medical condition as well as his daughter's heart defect which required ongoing treatment.

22. The learned counsel for the petitioner submits that the petitioner's inability to report for duty was, therefore, not wilful or deliberate but was the result of severe health conditions, including infective hepatitis, malaria-typhoid, and his daughter's heart defect, and that the petitioner's prolonged absence was necessitated by medical advice requiring bed rest for substantial periods and the need to ensure appropriate care for his daughter.

23. She contends that the petitioner's prior medical history, including his hospitalization at the 179th Battalion (Headquarters) Hospital for Jaundice between 27.07.2015 and 05.08.2015, demonstrates that his health issues were recurring and genuine.



24. The learned counsel for the petitioner contends that the dismissal of the petitioner from service *via* the Impugned Order dated 22.08.2016 is arbitrary, and disproportionate to the alleged misconduct, particularly in light of the mitigating circumstances.

25. The learned counsel for the petitioner submits that the delay in filing the present petition before this Court was primarily due to the unprecedented circumstances arising from the COVID-19 pandemic. Furthermore, the delay in filing the representations before the Appellant and Revisional Authorities was attributable to the ongoing departmental enquiries, during which the petitioner was under the impression that the matter was still under active consideration by the authorities.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENTS:

26. On the other hand, the learned counsel for the respondents submits that the petitioner's dismissal from service is justified, lawful, and in strict compliance with the disciplinary framework governing the CRPF. He submits that the petitioner wilfully overstayed his leave without providing any valid reason or intimation to the concerned authorities, thereby, undermining the discipline and integrity of the Force.

27. He submits that the petitioner was required to report for duty on 10.12.2015 for the evening roll-call at the Transit Camp, CRPF, Jammu, however, he failed to do so and overstayed his sanctioned leave from 11.12.2015 (FN). As a result, he was directed to report



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back for duty *via* letters dated 21.12.2015, 01.01.2016, and 11.01.2016, which were sent through Registered Post to his home address (Vill/Post Undeirkhade, PS Parola, District Jalgaon, Maharashtra, Pin 425111). Despite this, the petitioner neither reported for duty nor replied to any of the letters. Subsequently, a warrant for his arrest was issued *via* Letter No. W.II-3/2016-EC-II/179 dated 18.01.2016. Since the petitioner failed to report for duty despite repeated instructions, a Court of Inquiry (“COI”) was ordered *via* Office Order No. I-X-10/2016-EC-II-179 dated 22.02.2016.

28. He submits that based on the COI's recommendations, the petitioner was declared a deserter from the Force with effect from 11.12.2015 (FN) *via* Office Order No. I-X-10/2016-EC-II-179 dated 21.03.2016. A Departmental Enquiry (“DE”) was subsequently initiated against him under Rule 27 of the Central Reserve Police Force Rules, 1955 (in short, “CRPF Rules”) *via* Office Order No. P.VIII-03/2016-179-EC-II dated 29.03.2016 to investigate the circumstances under which the petitioner overstayed his leave. He submits that a memorandum of charges was dispatched to his home address on the same date.

29. He submits that after 15 days, Shri Gaurav Kumar Baliyan, Asstt. Comdt, and Insp/GD Krishan Mohan Thapa were appointed as the Enquiry Officer (“EO”) and Prosecuting Officer (“PO”), respectively, *via* Office Order No. P.VIII-02/2016-179-EC-II dated 15.04.2016.

30. He further submits that the EO, in his Letter No. G.II-1/2015-GKB dated 19.04.2016, directed the petitioner to report for the



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primary hearing at the office of OC-E/179, Town Hall, Sopore. A final opportunity was also provided by the EO *via* his Letter No. G.II-1/2015-GKB dated 04.05.2016, which included questionnaires. However, the petitioner did not respond to the letters. As a result, an *ex-parte* DE was conducted. Upon thorough inquiry, the charges framed against the petitioner under Article I were found proved beyond doubt by the EO. Petitioner's actions were deemed irresponsible, and he was declared 'UNFIT' to serve in the highly disciplined CRPF.

31. He submits that in compliance with the principles of natural justice, the Competent Authority granted to the petitioner 15 days to present his defence before passing the final DE orders. However, the petitioner neither reported back nor submitted any defence documents. Consequently, the Competent Authority issued the Order of 'Removal from Service' of the petitioner *via* Office Order No. P.VIII-02/2016-EC-II-179 dated 22.08.2016, under Section 11(1) of the Central Reserve Police Force Act, 1949, (in short, "CRPF Act") read with Rule 27 of the CRPF Rules.

32. He submits that aggrieved by the above order, the petitioner submitted a representation to the Home Minister of the Government of India, requesting reinstatement into service. This representation was received by the IGP, WS, from SDG, South Zone CRPF Hyderabad *via* Letter No. R-XIII-7/2019-SZ-CRV-1 dated 16.04.2019.

33. The learned counsel further submits that there was an unexplained delay of about two years and eight months between the date of the petitioner's dismissal from service and the date of his



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representation. Subsequently, the IGP WS forwarded the representation to the DIG Range Nagpur, with instructions for priority action, *via* Letter No. R-XIII-1/2020-WS-Adm-1 dated 26.04.2019. A detailed report along with the DE/COI/APAR files and other relevant documents was sent to DIG Range Nagpur *via* Letter No. M-V-1/2019-EC-2 dated 01.05.2019. The Appellate Authority rejected the petitioner's appeal on 20.05.2019, citing lack of merit.

34. Unsatisfied with the decisions of the Disciplinary and Appellate Authorities, the petitioner filed a Revision Petition dated 10.06.2019, addressed to the IGP WS, CRPF, Navi Mumbai, and a petition dated 22.08.2019 to the DG, CRPF, New Delhi, seeking the reversal of his removal from service, as well as the rejection of his appeal by the IGP WS in Order No. R.XIII-1/2019-Adm-I dated 29.07.2019.

35. He submits that after careful consideration, the IGP, W/Sector, CRPF (Reviewing Authority) and the Special DG, South Zone CRPF Hyderabad, found no valid reason to revise the final order passed in the DE, including the punishment imposed by the Disciplinary Authority, in accordance with the powers vested under Rules 29 and 30 of the CRPF Rules. Therefore, they rejected the Revision Petition and the representations dated 10.05.2019 and 22.08.2019.

36. He prays that the present petition is, therefore, liable to be dismissed.

Analysis and Findings:

37. We have considered the submissions made by the learned counsels for the parties.



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38. It is evident from the record that the petitioner, by way of letters dated 21.12.2015, 01.01.2016, and 11.01.2016, sent through Registered Post to his home address, was directed to report back for duty after availing of his leave. Despite this, the petitioner neither reported for duty nor replied to any of the letters. Subsequently, a warrant for his arrest was issued on 18.01.2016. Since the petitioner failed to report for duty despite repeated instructions, a COI was ordered by the Office Order No. I-X-10/2016-EC-II-179 dated 22.02.2016. In spite of notices, the petitioner still did not return for duty nor join the Inquiry proceedings. Eventually, by the Impugned Order dated 22.08.2016, he was removed from service. It is only after almost three years thereafter that the petitioner filed an appeal against his Dismissal Order.

39. While the petitioner contends that during all this period he was unwell and his daughter also had a heart issue, we cannot lose sight of the fact that the petitioner was serving in an armed disciplined Force. The least that was expected from him was that he shall respond to the repeated notices issued to him. Though the petitioner has produced his medical documents, the stage for testing them would have been in the departmental inquiry.

40. The power of this Court under Article 226 of the Constitution of India to interfere with a Departmental Inquiry is rather limited and circumscribed by well settled principles. This Court does not act as an appellate authority against the decision taken in the departmental proceedings and cannot substitute its view for the decision of the department, even on matter of punishment awarded to the employee,



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unless there is found to be some procedural infraction or violation of principles of natural justice in the course of inquiry, or the punishment is found to be disproportionate to the charge proved against the employee.

41. In the given facts of the present case, we do not find the petitioner to have made out a case for interference with the departmental inquiry or the punishment awarded to the petitioner.

42. Accordingly, we do not find any merit in this petition. The same is dismissed.

43. The parties shall bear their own costs.

NAVIN CHAWLA, J

SHALINDER KAUR, J

FEBRUARY 13, 2025/rv/IK/DG

Click here to check corrigendum, if any