

Shahnawaz Ahmad @ Shahnawaz Itoo @ Shahnawaz S/o- Mohammad Sultan, R/o- Village Chawalgam, Tehsil, P.O.- Chawalgam, P.S.- Kulgam, District Kulgam, State-Kashmir.

Versus

- Respondent/s

For the Petitioner/s : Mr. Vishal Vikram Rana, Adv.
Mr. Misha Bharti, Adv.
For the Respondent/s : Mr. Punam Kumari Singh, CGC

ii. *WRIT OF MANDAMUS*: commanding the respondents to take the Petitioner back in service and



consider his period of absence without leave as on duty.

iii. WRIT OF MANDAMUS: directing the respondent to give all consequential benefits including the salary and other benefits in favour of the Petitioner.

3. Counsel for the petitioner further submits that the petitioner was enrolled in the Central Reserve Police Force (CRPF) and became member of the force in the year 1995. He was selected and posted in the Commandment 134 BN CRPF where he served the force with dedication, zeal and honesty. He further submits that during his service, the petitioner had applied for 15 days of casual leave which was later granted in his favour w.e.f. 18.09.2000 to 09.10.2000. He further submits that the petitioner went to his native village to avail the said leave, but there, he got abducted from his house by some unidentified masked gunmen and during his confinement, he was subjected to a brutal third degree torture which left a deep and indelible impact on the nervous system of the petitioner then, he had to undergo psychiatric treatment for his condition and later on, opted to brought this incident to the notice of SHO P.S. Kulgam and in this regard, FIR was also registered. He further submits that the petitioner has been declared 'Deserter' in terms of the section 9(f) of the C.R.P.F. Act of 1949 and he was held to be liable prosecuted under Section 10(m) of the said Act.

4. Counsel further submits that the petitioner was not



participated in any departmental proceeding, but respondent authorities have passed final order dated 31.07.2001 by which he has been removed from his service. He further submits that the petitioner had filed a writ petition under heading SWP No.1175 of 2011 before the Hon'ble High Court of Jammu and Kashmir & Ladakh at Srinagar, which was finally disposed of on 26.07.2023 by which the Hon'ble Court had dismissed the writ petition on the ground that there is lack of jurisdiction, with liberty that the petitioner may approach appropriate forum in accordance with law.

5. Counsel further submits that after rejection of the writ petition, he has preferred the present writ petition before this Hon'ble Court.

6. Counsel for the Union of India submits that the petitioner was dismissed from his service on 31.07.2001 and the copy of the dismissal was communicated at the house of the petitioner at registered post no. 3109 dated 11.08.2001.

7. Counsel further submits that the petitioner was granted ample opportunity to defend his case, but due to over stay leave as well as bt own whims and fancy, sat over the matter and almost after 10 years from the date of passing of the dismissal order, has filed the present writ petition and then at



present, about 24 years has been passed from the date of dismissal order. As such, he has no case at all.

8. Upon specific query of this Court that the original order has been passed under Rule 27 of the C.R.P.F. Rules, 1955, is appealable under Rule 28 and revisable under section 29 of the Rules of 1955. In spite of that, why the petitioner has not preferred either appeal or revision and directly come before this Hon'ble Court.

9. In this regard, counsel for the petitioner has no specific answer.

10. In the light of the submissions made, it transpires to this Court that the petitioner has not availed the statutory remedy and directly come before this Court after lapse of about 23 years. As such, this Court has no option, but to dismiss the present writ petition.

11. With the aforesaid directions and observations, the present writ application stands dismissed.

(Dr. Anshuman, J)

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