

HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA

WRIT PETITION No. 38233 OF 2012

ORDER :

This Writ Petition is filed seeking a *mandamus* to declare the action of the 4th respondent in terminating the petitioner from CRPF under the proviso to sub-rule (1) of Rule 5 of Central Civil Services (Temporary Service) Rules, 1965 instead of Rule 16 of the CRPF Rules, 1955 without serving one month notice or one month salary as contemplated under the said Rule as highly arbitrary, illegal and unconstitutional.

2. As the petitioner is not mentally sound, he is being represented by his father Sri Mutyala Rao. It is stated that on 18.02.2009, the 4th respondent unlawfully and illegally without any notice or one month salary as required under Rule 5(1)(b) of the Central Civil Services (Temporary Service) Rules, 1965 (for short, 'the Rules') has terminated the petitioner from CRPF. It is their case that the petitioner developed mental illness and depression while he was on extended period of probation for one year with effect from 15.01.2009. Therefore, he has to be provided suitable financial and medical assistance as applicable under CRPF Risk Fund, and has to be paid regular subscription towards the Risk Fund. The grievance of the petitioner's father is that the doctors have not declared his son as permanently incapacitated

for service. The 4th respondent has not considered his son's case in accordance with Para 9 a(iii) of CRPF Standing Order No. 07/1999 read with Rule 38 of CCS Pension Rules 1972 for invalidation on medical grounds.

3. A counter-affidavit was filed by the DIGP (CCD) wherein it has been stated the petitioner was enlisted in CRPF on 26.04.2006 as Constable/GD and after completion of basic training, he was allotted to 153 Bn. and since then, he was continuously under treatment for ailment of 'Acute Phychosis and depression'. He was sent to Composite Hospital at New Delhi and the case history reveals that in December 2007, he suddenly developed abnormal behaviour like irrelevant talking, abusing others, refusing to attend duty, trying to beat his colleagues. He was therefore, referred to various departmental hospitals where he was treated with Antipsychotics. Though after treatment, he was discharged from the hospital, again he was referred to hospital with same illness. It is stated that considering the chronicity and relapsing nature of his illness, duties d responsibilities, the Board was of the opinion that he was not fit to continue as an effective member of the Force, therefore, action may be taken as per existing order. According to the respondents, his diagnosis shows as 'psychgosis and in medical category – S.5D'. hence, the services of petitioner were terminated without assigning any reason under Rule 5(1) of the Rules. Later on, father of the petitioner preferred

an Appeal against the order of termination which was rejected by the IGP, Northern Sector, CRPF, New Delhi being devoid of merit *vide* order dated 14.05.2009.

It is stated that by the time of termination, the petitioner's services were not confirmed and he was under probation which was extended for a period of one year *vide* order dated 15.01.2009, hence, as per the existing Government instructions, he was terminated without assigning any reason. There is no arbitrariness or illegality on the part of the 4th respondent. In the counter, it is denied that the doctors have not declared him permanently incapacitated for service. From the case summary of composite Hospital, CRPF, New Delhi received *vide* letter dated 29.01.2009, it is clear that Ex-CT/GD was found not fit to be continued as an effective member of the Force. It is further stated that since the services of Ex-CT/GD have been terminated under CCS(TS) Rules, 1965, the question of invalidation on medical grounds does not arise. It is stated that medical expenditure was born by CRPF while the petitioner was in service, hence, providing medical assistance after his termination from services is not according to the procedure. It is also stated that the order of termination from services in respect of the petitioner has been taken into consideration by the IGP, Northern Sector, CRPF, New Delhi and it was rejected on merits. The Writ Petition is therefore, liable to be dismissed *in limini*.

4. Learned counsel for the petitioner submits that his client was enrolled in the Force only after he was declared medically-fit to serve the Force by the Board of CRPF doctors and in this case, the ailment of medical illness is fully attributable to his service. According to the learned counsel, the petitioner has to be given one month notice as contemplated under Rule 16 of the Rules and application of Rule 5(1) does not arise in his case.

5. Heard Sri Gadi Praveen Kumar, learned Deputy Solicitor General.

6. The grievance of the father of the petitioner is that his son developed mental illness and depression while was on extended period of probation for one year with effect from 15.01.2009. According to him, one month notice or one month salary as required under Rule 5(1)(b) was not given. While the case of the respondents is that since the date of joining the duty, petitioner was under treatment for ailment of 'Acute Psychosis and Depression' and he was referred to various hospitals. The case history reveals the petitioner's abnormal behaviour like irrelevant talking, abusing others, refusing to attend duty, trying to beat his colleagues which clearly shows that he has been suffering from psychic disorder. The Medical Board also opined that the petitioner is not fit to be continued as an effective member of the Force. Further, the Appeal preferred by the petitioner's father

against the termination order was also rejected by the IGP, Northern Sector, CRPF, New Delhi being devoid of merits.

7. In this factual backdrop, it is appropriate to note precisely the aims and objectives of the Central Reserve Police Force (CRPF). It is India's largest paramilitary Force. It performs a wide range of duties, to name a few law enforcement, counter-terrorism operations, VIP security, etcetera. CRPF personnel are being deployed all over India and they participate in various operations and peace-keeping missions in the country. CRPF is known for its professionalism, discipline and commitment in maintaining peace and security of the nation.

8. Now the question is whether the action of the 4th respondent is justified or not, if so in what circumstances.

9. The material on record, medical certificates and discharge summary annexed in particular show that petitioner has been suffering from bipolar affective disorder, psychosis C Epiphora and depression. In an organisation like CRPF, a member with such mental condition cannot be expected to perform his duties with utmost commitment and discipline. Hence, without any hesitation, this Court is in full agreement with what has been done by the 4th respondent.

10. As regards the contention of the learned counsel that no notice as contemplated under Rule 5(1)(b) was issued

prior to termination of petitioner is concerned, a brief look at the proviso to the said Rule makes it clear that *'the service of any such Government servant may be terminated forthwith and on such termination, the Government shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rates at which he was drawing them immediately before the termination of his services or, was the case may be for the period by which such notice falls short of one month'*. The Office Order dated 18.02.2009 of the 4th respondent shows that *'in pursuance of the Proviso to sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965, I, the undersigned hereby terminate services No. 065143702 Constable S. Malleswar Rao of A/153 Bn. CRPF with effect from 18.02.2009 and direct that he shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of notice at the same rate at which he was drawing them immediately before the termination of his service or as the case may be for the period by which such notice falls short of one month'*. It clearly establishes that the 4th respondent has followed the mandate provided under Rule 5(1)(b). Hence, this Court is not inclined to accept the contention of the learned counsel.

11. Further, the submission that petitioner has to be provided with suitable financial and medical assistance as applicable under CRPF Risk Fund is concerned, according to the

respondents, medical expenditure was borne by CRPF while he was in service, hence, continuing the same facility even after his termination is not in conformity with the procedure.

12. In view of foregoing discussion, this Court does not find any merit in the Writ Petition and the same is liable to be dismissed.

13. The Writ Petition is accordingly, dismissed. No costs.

14. Pending miscellaneous petitions, if any, shall stand closed.

NAGESH BHEEMAPAKA, J

05th September 2023

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