
(2020) 06 JH CK 0012
In the Jharkhand High Court
Case No : Writ Petition(S) No. 7910 Of 2012

Basant Kumar

APPELLANT

Vs

Central Reserve Police Force

RESPONDENT

Date of Decision : 08-06-2020

Acts Referred:

Persons with Disabilities (Equal Opportunities Protection Of Rights and Full Participation) Act, 1995 — Section 47
Central Civil Services (Pension) Rules, 1972 — Rule 38, 49(1)

Citation : (2020) 06 JH CK 0012

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Sanjay Prasad, Rajiv Sinha

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties through V.C.
2. The instant application has been preferred by the petitioner for following reliefs:-
 - (i) For issuance of an appropriate writ (s), order (s) direction(s) for quashing the order dated 10.12.2010 contained in Ref. No. RII4/2010-BS-ADM-2A passed by the respondent No.2 whereby and whereunder the revision under Article 39 of CRPF Rules 1949 has been rejected;
 - (ii) For issuance of an appropriate writ(s) order (s) direction(s) commanding upon respondent to reinstate the petitioner into services with entire benefit accrued to him thereon and/or alternatively pay to him the disability pension from the date of his retirement under Rule 38 of CCS Pension Rules, 1972.
3. The facts of the case lie in a narrow compass. The petitioner was appointed as constable under Central Reserve Police Force on 15.04.2006, thereafter, he continued to render his services till October, 2006, when he fell seriously ill and was referred to PMCH at Dhanbad and on diagnosis it was found that he was

suffering from acute psychosis and thereafter, he was referred to Central Institute of Psychiatry Kanke Ranchi, where he was admitted w.e.f.13.11.2006 to 02.01.2007, thereafter, he was referred to medical Board for ascertainment of disability percentage and the senior medical officer CRPF, Sindri, on the basis of examination has found that the disablement of the petitioner is assessed to be 70%. Pursuant to that a memo contained in letter dated 21.05.2008 was issued whereby the petitioner has been informed that he has been found 70% disabled as such he has been declared to be disabled to continue in service and he has been further informed that he is going to retire after one month from the date of issuance of memo under Rule 38 of CCS Pension Rule, 1972. Thereafter, the petitioner preferred an appeal against the said order of his retirement before the appropriate authority on 04.06.2008 duly enclosing the medical certificate issued by one Dr. Ashok Kumar Prasad, MD, DPM Psychiatrist, R.M.C.H, Ranchi. However, his appeal was rejected by the appellate authority.

4. Learned counsel for the petitioner submits that since he has been found unfit as such, he should be paid the disability pension from the date of his retirement under Rule 38 of CCS Pension Rule, 1972.

5. A counter-affidavit has been filed in this case and the facts are not disputed.

6. Learned ASGI appearing for the Respondent-CRPF submits that medical board has opined that the petitioner is suffering from 70% disability and that too from major mental illness i.e. acute psychosis therefore, he was invalidated from service w.e.f. 20.06.2008. He further submits that since he did not complete ten years of service as such, he is not found fit for invalidation pension under Rule 49 (1) of CCS Pension Rules, 1972.

7. Learned counsel for the petitioner further submits that the petitioner is also not entitled for the benefits enshrined under "Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 as the same will not apply in the case of CRPF" in view of the notification dated 10th September, 2002, the Central Government having regard to the type of work carried on exempted all categories of posts of "combatant personnel" from Section 47 of the said Act. The relevant portion of the notification is quoted herein below;

"In exercise of the powers conferred by proviso to Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (10 of 1996) the Central Government having regard to the type of work carried on hereby exempt all categories of posts of "combatant personnel" only of the Central Para Military Forces (CPMFs), namely, Central Reserve Force (CRPF), Border Security Force (BSF). Indo-Tibetan Border Police (ITBP). Central Industrial Security Force (CISF) and Assam Rifles from the provisions of the said section."

8. After going through the records of the case and the facts that the petitioner has not completed ten years of service as such, he is neither entitled for

invalidation pension under Rule 49(1) of CCS Pensions Rules, 1972 nor he is entitled for any relief under the "Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 in view of the notification that the "combatant personnel" are exempted from the benefit of the said Act. As such, in the peculiar facts and circumstances of the case, no relief can be granted to the petitioner and as a result the instant application stands dismissed.