
(2008) 03 P&H CK 0106
In the Punjab And Haryana At Chandigarh

Harikant

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 18-03-2008

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2008) 2 PLR 559

Hon'ble Judges : Mohinder Pal, J; Hemant Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Mohinder Pal, J.—The petitioner was recruited as a Constable in the Central Reserve Police Force (hereinafter referred to as C.R.P.F.) on March 21, 2003. Basic training of the petitioner along with all other recruits had commenced on April 21, 2003. During the training on June 18, 2003, he fell ill and was referred to Base Hospital-1, C.R.P.F., New Delhi. The petitioner was found suffering from tuberculosis. After preliminary treatment, he was discharged from the Hospital on August 30, 2003, and was advised continuous treatment for nine months with periodical check-up.

2. The Commandant, 153 Battalion, C.R.P.F., Kadarpur, Gurgaon (Haryana) (respondent No.4) did not consider appropriate to keep the petitioner in service and terminated his services on October 01, 2003 vide order Annexure P-4 by referring to the provisions of Sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Services) Rules, 1965 (hereinafter referred to as "the Rules of 1965") read with Rule 16 of the Central Reserve Police Rules, 1955 (hereinafter referred to as "the C.R.P.F. Rules). Aggrieved against the order dated October 01, 2003 (Annexure P-4), the petitioner filed appeal before the Inspector General of Police, North Sector, C.R.P.F., New Delhi (respondent No.2), which was dismissed vide order dated September 28, 2006 (Annexure P-6).

In this petition filed under Articles 226/227 of the Constitution of India, the

petitioner has prayed for issuance of a writ in the nature of certiorari quashing the orders dated October 01, 2003 (Annexure P-4) and September 28, 2006 (Annexure P-6). He has also prayed for issuance of a writ in the nature of mandamus directing, the respondents to reinstate him in service.

3. In the written statement filed by the respondents, it has been stated that the petitioner fell ill on June 18, 2003 and was referred to Base Hospital-I, C.R.P.F., New Delhi by the Unit Medical Officer for treatment where he was diagnosed as a case of tuberculosis. He remained admitted in hospital from June 18, 2003 to August 30, 2003. It is further stated that a Board of Medical Officers was constituted and the petitioner was examined on September 16, 2003. The Board opined that the petitioner required test, continuous treatment and follow up for regular nine months for his recovery. Acting upon the advise given by the Board of Medical Officers coupled with the fact that the petitioner was on training, his services were terminated vide order dated October 01, 2003 and he was paid Rs. 5,514/- i.e. salary of one month in lieu of notice period on that day itself.

4. We have heard Ms. Balwinder Kaur, Advocate, appearing for the petitioner and Mr. Sanjiv Kaushik, Advocate, appearing for the respondents and have gone through the records of the case.

5. Rule 16 of the C.R.P.F. Rules provides that all members of the Force shall be en-rolled for a period of three years. At the end of this period, those not given substantive status shall be considered for quasi-permanency under the provisions of the Rules of 1965. Those not declared quasi permanent under the said Rules shall be continued as temporary government employees unless they claim discharge. Those who are temporary shall be liable to discharge on one month's notice and those who are quasi-permanent shall be liable to discharge on three months' notice in accordance with the said rules, as amended from time to time. Rule 5(1)(a) of the Rules of 1965 provides that the services of a temporary Government Servant shall be liable to termination at any time by a notice in writing given either by the Government Servant to the appointing authority or by the appointing authority to the Government Servant. Under Clause (b) of Rule 5(1) *ibid*, the period of such notice shall be one month. It has been further provided that the services of any such Government Servant may be terminated forthwith by payment to him 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, as the case may be, for the period by which such notice falls short of one month.

6. As stated above, after recruitment of the petitioner in the C.R.P.F. his basic training along with other recruits commenced on April 21, 2003. During training, on June 18, 2003, he fell ill and was referred to Base Hospital-I, C.R.P.F., New Delhi, by the Unit Medical Officer. He was diagnosed as a case of tuberculosis. He had to remain admitted in hospital from June 18, 2003 to August 30, 2003. Thereafter, a Board of Medical Officers was constituted on September 16, 2003 for examining the petitioner. The Board opined that the petitioner needed

continuous treatment and follow up for regular nine months for his recovery. After this opinion by the Medical Board, services of the petitioner were terminated forthwith vide order dated October 01, 2003 (Annexure P-4) and was paid Rs. 5,514/- i.e. a sum equivalent to the amount of his pay plus allowances for the period of notice of one month on that day. Against this order, the petitioner filed appeal dated January 03, 2006 (Annexure P-5) i.e. after more than two years. The appeal was dismissed vide order dated September 28, 2006 by holding that in the force like C.R.P.F., complete physical fitness of a Constable is necessarily required because health of a Constable directly affects on his duties and the efficiency, which is the fundamental requirement in the Unit and cannot be ignored. It was further observed by the Appellate Authority that the petitioner had not produced any proof in appeal declaring him medically fit. Thus, the petitioner was not found fit to be retained in the disciplinary force.

7. In view of the above, we do not find any illegality in the impugned orders which may warrant interference by this Court in exercise of its writ jurisdiction, hence, the present petition is dismissed.

Sd/- Hemant Gupta, J.