
(2009) 06 PAT CK 0010
In the Patna High Court
Case No : C. Rev. No. 19 of 1998

Radha Krishna Upadhya

APPELLANT

Vs

The Union of India (UOI) and Others

RESPONDENT

Date of Decision : 23-06-2009

Acts Referred:

Central Reserve Police Force Act, 1949 — Section 13

Central Reserve Police Force Rules, 1955 — Rule 27, 28

Citation : (2009) 57 BLJR 2987

Hon'ble Judges : S.N. Hussain, J

Bench : Single Bench

Final Decision : Allowed

Judgement

S.N. Hussain, J.—Heard learned Counsel for the petitioner.

2. No one appears on behalf of the respondents even after due service of notice.

3. This petition has been filed for review of order dated 25.11.1997 passed by a Bench of this Court in C.W.J.C. 767 of 1997 dismissing the said writ petition holding that the order under challenge was appealable under Rule 28 of the Central Reserve Police Force Rules 1955 (hereinafter to be referred as the Rule) and the petitioner has not exhausted the alternative remedy of appeal.

4. Learned Counsel for the petitioner submits that petitioner was a personnel of Central Reserve Police Force in the rank of Sub Inspector and was posted in Jammu and Kashmir. He further submits that Respondent No. 2, Additional D.I.G.P.-cum-Estate Officer, GC Group Centre, C.R.P.F. Mokamaghat, Patna, issued order dated 3.9.1996 for recovery of damage at the rate of Rs. 986 P.M. with effect from 1.5.1996 till vacation of Government quarter from the pay of the petitioner.

5. The said order was challenged by the petitioner in C.W.J.C. No. 767 of 1997, but the said writ petition was dismissed by a Bench of this Court vide its order dated 25.11.1997, holding that the order under challenge was appealable under

Rule 28 of Central Reserve Police Force Rules and the petitioner has not exhausted the alternative remedy of appeal. It is claimed that the said order is to be reviewed in this case as Rule 28 of the aforesaid Rules is no doubt with regard to appeals, but the said appeal can be filed only against the orders passed in case attracting Sl. Nos. 1 to 7 of the Table under Rule 27 of the Rule or Clause (d) and (e) of Section 13 of the Central Reserved Police Force Act, 1949 (hereinafter to be referred as the Act) but the said provisions are not applicable to the facts and circumstances of the case.

6. From a bare perusal of Rules 28 and 27 of the Rules, it is quite apparent that appeals can be filed only against dismissal or removal from a force or for reduction to a lower pay or stage or redemption of fine or confinement or stoppage of increment only and not against any other order.

7. So far Section 13(d) & (e) of the Act is concerned they are only with regard to the forfeiture and refund of expenses. It is quite apparent that the order which was challenged in the writ petition does not come under the purview of either Rule 27 of the Rules or Section 13(d) & (e) of the Act and hence the said order is clearly not appealable under Rule 28 of the Rules.

8. In the said circumstances, this Review petition is allowed and order dated 25.11.1997 is reviewed and recalled. Thus, C.W.J.C. No. 767 of 1997 stands pending, let the same be placed before the appropriate Bench hearing such cases.