

(2020) 02 PAT CK 0364

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 2828 Of 2012

Santosh Kumar Manjhi

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 27-02-2020

Acts Referred:

Central Civil Services (Temporary Service) Rules, 1965 — Rule 5(1)

Citation : (2020) 02 PAT CK 0364

Hon'ble Judges : Madhuresh Prasad, J

Bench : Single Bench

Advocate : Ajay Kr. Singh, S.D. Sanjay, R.K.Sharma

Final Decision : Dismissed

Judgement

Heard learned counsel for the petitioner as well as learned Additional Solicitor General for the Union of India.

The petitioner, who was appointed as Constable in the respondent-Central Para Military Force, namely, CRPF, has been visited with an order under Rule 5(1) of the Central Civil Services (Temporary Service) Rules, 1965 (for brevity 'the Rules'). The power under Rule 5(1) of the Rules reads as follows:-

"5. Termination of temporary Service.- (1) (a) The services of a temporary Government Servant who is not in quasi-permanent service 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:

(b) The period of such notice shall be one month:

Provided that the service of any such Government Servant may be terminated forthwith and on such termination the Government servant shall be entitled to claim a sum equivalent to the amount of his pay plus allowances for the period of the 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.

Note.- The following procedure shall be adopted by the appointing authority while serving notice on such Government servant under Clause (a)-

(i) The notice shall be delivered or tendered to the Government Servant in person.

(ii) Where personal service is not practicable, the notice shall be served on such Government servant by Registered post acknowledgment due at the address of the Government servant available with the Appointing Authority.

(iii) If the notice sent by registered post is returned unserved it shall be published in the official Gazette and upon such publication, it shall be deemed to have been personally served on such Government servant on the date it was published in the official Gazette."

The learned counsel, representing the petitioner, submits that the order does not contain any reasons in support thereof.

He further submits that he has gone in appeal and in the order passed on the appeal he has come to know that the reason behind issuance of the order was the misrepresentation done by him in Column 12(a) and (b) of the Verification Roll. Clause 12(a) reads as follows:-

"12(a) Have you ever been arrested prosecuted, kept under detention or bound down/fined, convicted, by a court of law for any offence or debarred/disqualified by any Public Service Commission from appearing at its examination/selections, or debarred from taking any examination/rusticated by any University or any other education authority/institution?

12(b) Is any case pending against you in any court of law, University or any other Education authority/institution at the time of filling up this Verification Roll? If answer to (a) or (b) is 'Yes' then give details of prosecution, detention, fine, conviction and punishment etc, and state about the case pending with the Court/ University/Education authority at the time of filling in this form."

Against these two columns the petitioner has written a response "NO", the same is apparent from the copy of the Verification Roll submitted by the petitioner (Annexure -A to the counter affidavit). Petitioner's counsel submits that the criminal prosecution, which was initiated against the petitioner, was arising out of Garkha P.S. Case No. 20 of 2005. The same was lodged at the time when the petitioner was still a minor.

From perusal of the order sheets of the case, it is apparent that upon his surrender before the Court, he along with all other family members were enlarged on bail. The matter pending in the said criminal prosecution was finally disbelieved by the Criminal Court and the proceedings ended in acquittal of the petitioner on 12.08.2011. The petitioner along with his entire family members

had been implicated in the said case at the instance of his agnates on extraneous considerations. The said submissions have to be viewed in the background of the fact that this is not a case where the petitioner, who has filled up the Verification Roll, seeking employment in the respondent-Force after attaining the majority has truthfully disclosed that pendency of the criminal trial arising out of Garkha P.S. Case no. 20 of 2005. Had he disclosed such pendency, then the petitioner could have been permitted to say that merely for pendency of the criminal case, he cannot be disqualified or that his continuance in service would be subject to result of the criminal trial. The instant case is one of suppression. The petitioner has not only suppressed, but positively misrepresented by giving a response "NO" in respect of the two disclosures required under Clause 12(a) and (b). Such conduct of the petitioner surely disentitles him from obtaining or continuing in a uniform and discipline Force.

This Court would also observe that having indulged in such suppression and misrepresentation, petitioner cannot be permitted to invoke the jurisdiction of this Court under Article 226 as a Court of equity. This Court does not find any reason to interfere with the termination.

The writ petition is dismissed.