



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Special Appeal Writ No. 333/2022

No. 970250021 Sep/driver Ramraj Meena Son Of Shri Asha Ram Meena, Resident Of Village Chakri, Post Chakri, Police Station, Malarna Dungar, District Sawai Madhopur Rajasthan.

----Appellant

Versus

1. The Union Of India, Through Its Secretary, Ministry Of Home Affairs, New Delhi.
2. The Director General, Central Reserve Police Force (Crpf), Cgo Complex, New Delhi.
3. The Inspector General Of Police, Central Reserve Police Force (Crpf), Rajasthan Sector, Vidhyadhar Nagar, Jaipur.
4. The Commandant, 40 Battalion, Central Reserve Police Force (Crpf) 56 Apo.
5. D.i.g., Central Reserve Police Force (Crpf), Range Office, Group Centre, Ajmer.

----Respondents

For Appellant(s) : Mr. M.S. Raghav

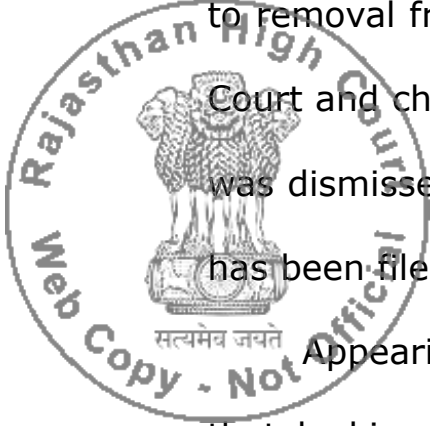
**HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI
HON'BLE MR. JUSTICE SUDESH BANSAL
Judgment**

09/02/2022

This appeal is filed by the original petitioner to challenge the judgment of the learned Single Judge dated 10.12.2021. The appellant was engaged as a constable-driver in CRPF. He was granted leave from 21.08.2013 to 19.09.2013. He however did not report for duty on completion of leave period. He remained unauthorisedly absent without sanction of leave from 20.09.2013 on wards without any intimation to the department. The departmental enquiry was therefore initiated against him. He did not participate in the enquiry. Final order was passed by the



disciplinary authority on 10.09.2014 imposing punishment of dismissal. During the enquiry it appears that the department had discharged the charge-sheet, list of witnesses, enquiry officer's report at all stages but there was no response from the petitioner. The petitioner had challenged the order of the disciplinary authority. The appellate authority converted the order of dismissal to removal from service. Eventually the petitioner approached this Court and challenged the punishment imposed on him. His petition was dismissed by the learned Single Judge upon which this appeal has been filed.



Appearing for the appellant-original petitioner it is submitted that looking to the long clean service of the petitioner extreme punishment of removal from service should not have been imposed. He submitted that the petitioner was suffering from illness on account of which he could not resume his duties. He lastly contended that none of the communications of the department reached to him because the petitioner was not living at his residence. In support of his contentions he relied on following decisions:-

- (1) In case of Veerendra Kumar Dubey Vs. Chief of Army Staff and Ors., reported in (2016) 2 Supreme Court Cases 627;**
- (2) In case of Roop Singh Negi Vs. Punjab National Bank and Ors., reported in (2009) 2 Supreme Court Cases 570;**
- (3) In case of Krushnakant B. Parmar Vs. Union of India and Anr., reported in (2012) 3 Supreme Court Cases 178;**
- (4) In case of Bhagwan Lal Arya Vs. Commissioner of Police, Delhi and Ors., reported in 2004 (3) SLR 70;**



(5) In case of Chairman-cum-Managing Director, Coal India Limited and Another. Vs. Mukul Kumar Choudhuri and Others., reported in (2009) 15 Supreme Court Cases 620.

In our view the petitioner has not made out any case for interference. We may recall, the petitioner was engaged as constable of CRPF which is a disciplined force. He remained unauthorisedly absent without sanctioned leave or communication to the department for about one year. This was a clear case of misconduct. Section 10 of the Central Reserve Police Force Act, 1949 (in short 'the Act') pertains to less heinous offences and includes the act of a member of the force of remaining absent himself without leave, or without sufficient cause overstaying the leave granted to him. For any such less heinous offences the punishment prescribed under Section 10 of the said Act is of imprisonment for a term which may extend to one year or with fine which may extend to three months' pay, or with both. Section 11 pertains to minor punishments. Sub-section (1) of Section 11 provides that the commandant or any other authority or officer as may be prescribed, may, subject to any rules made under the Act, award in lieu of, or in addition to, suspension or dismissal any one or more of the punishments to any member of the force whom he considers to be guilty of disobedience, neglect of duty, or remissness in the discharge of the duty or any duty or other misconduct in his capacity as a member of the force. One of the punishments prescribed is removal from the office.

Thus for the act of remaining absent without leave, under Section 10 the competent authority could impose a punishment of imprisonment. Under Section 11 the punishment of dismissal or



removal from service can also be considered. As noted, the disciplinary authority had imposed the punishment of dismissal from service which was converted by the appellate authority to removal from service. These punishments are thus within the competence of the said authority to impose. The misconduct of not reporting for duty for over one year without sanctioned leave was established during the course of enquiry. The petitioner has not produced any evidence of his suffering from such illness which prevented him from resuming his duty and which prevented him from appearing in the departmental enquiry and any rate from communicating to the department his inability to appear. All communications were made by the department at his residential address. Despite which the petitioner did not appear before the disciplinary authority. The petitioner cannot complain that the enquiry was conducted ex-parte.

Under the circumstances, we do not find any reason to interfere. The case of punishment essentially rests with the disciplinary authority. The Court would not interfere unless the punishment shocks the conscience of the Court. Reference in this respect can be made to the decision of the Supreme Court in the case of **B.C. Chaturvedi Vs. Union of India and Ors., reported in AIR 1996 SC 484.**

The appeal is dismissed.

(SUDESH BANSAL),J

(AKIL KURESHI),CJ

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