

GAHC010122332014



2026:GAU-AS:4340

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/293/2014

SRI PRASANNA ROY,
S/O LATE MAHENDRA ROY, R/O VILL- MAHARANI, P.O. BAGHMARA, P.S.
PATACHARKUCHI, DIST. BARPETA, ASSAM.

VERSUS

THE UNION OF INDIA and 6 ORS
REP. BY THE SECY., MINISTRY OF HOME AFFAIRS, NEW DELHI.

2:THE DIRECTOR GENERAL
CENTRAL RESERVE POLICE FORCE
GOVT. OFFICE COMPLEX
NEW DELHI.

3:THE INSPECTOR GENERAL OF POLICE
CENTRAL RESERVE POLICE FORCE
N.E. SECTOR
SHILLONG
MEGHALAYA- 793001.

4:THE DY. INSPECTOR GENERAL OF POLICE
CENTRAL RESERVE POLICE FORCE
GROUP CENTRE
AMERIGOG
GHY- 23.

5:THE DY. INSPECTOR GENERAL OF POLICE
CENTRAL RESERVE POLICE FORCE
GROUP CENTRE
GANDHI NAGAR
GUJRAT.

6:ADDL. DY. INSPECTOR GENERAL OF POLICE
CENTRAL RESERVE POLICE FORCE
GROUP CENTRE
AMERIGOG
GHY-23.

7:THE COMMANDANT
CENTRAL RESERVE POLICE FORCE
GROUP CENTRE
GANDHI NAGAR
GUJRAT.

8:MINAKSHI ROY

W/O LATE MONOJ KR. ROY
R/O VILL- MAHARANI
P.O.-BAGHMARA
DIST. BARPETA
ASSAM

Advocate for the Petitioner : MRM HAZARIKA, MR.M PATHAK,MR.M K BORO,MR.N K KALITA,MS.D DEKA

Advocate for the Respondent : ASSTT.S.G.I., MRS. A GAYAN,,MR.D BARUAH,C.G.C.,MR.M PHUKAN(R-1to7)

:::BEFORE:::

HON'BLE MR. JUSTICE KARDAK ETE

Date on which judgment is reserved : 19.03.2026

Date of pronouncement of judgment : 26.03.2026

Whether the pronouncement is of
the operative of the judgment? : No

Whether the full judgment has been
pronounced? : Yes

JUDGEMENT & ORDER (CAV)

Heard Mr. N. K. Kalita, learned counsel for the petitioner. Also heard Ms. A. Gayan, learned Central Government Counsel for the respondents.

2. By filing this writ petition, the petitioner has put to challenge the order dated 27.11.2006, issued by the Additional DIGP, CRPF, by which the service of the petitioner is terminated on account of desertion from the Force and unauthorised absence with effect from the date of expiry of one month notice from the date on which order was served upon the petitioner.

3. During the pendency of the writ petition, the original petitioner, Late Monoj Kumar Roy (hereinafter referred to as the deceased petitioner) as expired and by an order dated 21.07.2014, passed in MC Case No. 1403/2014, he has been allowed to be substituted by his father.

4. The case, in brief, is that pursuant to a recruitment process conducted by the respondent authorities, the deceased petitioner was offered appointment to the post of Constable (General Duty) vide order dated 02.06.2004 and was directed to report before the Additional DIGP, Group Centre, CRPF, Amerigog, Guwahati on 22.06.2004 along with the offer letter. However, due to illness, the deceased petitioner could not report on the said date, which was duly intimated to the authorities, and upon such request, the respondent authority extended time for reporting. Thereafter, the deceased petitioner joined his service and was allotted Force No. 045132509 and attached to G/168 Battalion, CRPF. Subsequently, the deceased petitioner was posted in Gandhinagar, Gujarat to undergo his training. While undergoing training, the deceased petitioner fell

seriously ill in the month of January, 2006 and was admitted to Gandhinagar Civil Hospital on 15.01.2006. However, due to deterioration of his health and inability of proper diagnosis, the deceased petitioner left the said hospital and returned to Guwahati, where he was diagnosed with a brain tumor. The deceased petitioner underwent a critical surgical operation on 27.01.2006 and remained under continuous medical treatment thereafter.

5. The petitioner contends that the respondent authorities were duly informed about the medical condition of the deceased petitioner from time to time by his family members, along with supporting medical documents. However, despite such communications, the respondent authorities repeatedly directed the deceased petitioner to report for duty and sought further medical documents. It is the case of the petitioner that owing to prolonged illness, including loss of eyesight and continuous treatment at different medical institutions, the deceased petitioner was unable to resume duty.

6. In the meantime, the respondent authorities issued the impugned order dated 27.11.2006 terminating the service of the deceased petitioner purportedly under Rule 5(1) of the Central Civil Services (Temporary Service) Rules, 1965. Being aggrieved, representations were submitted before the competent authorities seeking reconsideration of the case of the deceased petitioner on humanitarian grounds; however, the same have not been considered. A revision petition and appeal were preferred before the Respondent authorities which came to be rejected vide order dated 29.08.2007. Hence, this present writ petition.

7. Mr. N. K. Kalita, learned counsel for the petitioner, submits that on various occasions the father of the deceased petitioner and other family members informed the Respondent authorities regarding the the serious illness of the

deceased petitioner with supporting medical documents. However, the respondent authorities failed to consider the same. He submits that the impugned order has been passed under the Central Civil Services (Temporary Service) Rules, 1965, which is in fact punitive and stigmatic in nature, having been issued on allegation of unauthorized absence and desertion without following the due procedure prescribed under the CRPF Act, 1949 and the Rules framed thereunder.

8. He submits that the competent authority failed to consider the genuine medical condition of the deceased petitioner and the materials placed on record and the revisional and appellate authorities mechanically rejected the claim without proper consideration. Therefore, he submits that the impugned order of termination, being stigmatic and punitive in nature and passed without following due process of law, is liable to be set aside as the same is arbitrary, illegal and violative of the principle of natural justice.

9. In support of his submissions, Mr. Kalita, learned counsel has placed reliance upon the following judgements:-

I. Dipti Prakash Banerjee Vs. Satyendra Nath Bose National Centre for Basic Sciences, Calcutta & Ors., reported in **(1999) 3 SCC 60,**

II. U.P. State Road Transport Corporation & Ors. Vs. Brijesh Kumar & Anr., reported in **2024 0 Supreme(SC) 711,**

III. Ex. Ct/gd Pinku Kumar Paul Vs. Union of India & Ors., reported in **(2012) 5 GLR 860,**

IV. Shri Sasanka Saikia Vs. The Gauhati University & Anr., passed in **WP(C) No. 4393/2022,**

10. Ms. A. Gayan, learned Central Government Counsel for the respondents, on the other hand, submits that the deceased petitioner was appointed as Constable (General Duty) in the CRPF and was subsequently sent to 168 Battalion, CRPF, Gandhinagar for undergoing basic training. The deceased petitioner underwent a substantial portion of his training at Gandhinagar; however, while undergoing the 42nd week of training, he deserted the camp on 20.01.2006 while proceeding to Civil Hospital, Ahmedabad, without any intimation to the competent authority and such conduct amounts to gross misconduct and indiscipline.

11. She submits that the respondent authorities issued communications directing the deceased petitioner to report for duty forthwith. Although a communication was received from the family members informing about his illness and subsequent medical treatment, the deceased petitioner was repeatedly called upon to submit proper medical documents in support of his claim and to resume duty. She submits that though certain medical documents were submitted, but the same were found to be inadequate. Moreover, as per the medical certificate dated 23.02.2006 issued by the treating doctor, the deceased petitioner was declared fit to resume duty; however, he failed to report for duty either at Gandhinagar or Guwahati. Even thereafter, further opportunities were granted and directions were issued to him to report for duty along with original medical documents, but he failed to comply.

12. Ms. Gayan submits that the deceased petitioner remained absent from duty for a prolonged period and was treated as a deserter with effect from 20.01.2006. Consequently, his pay and allowances were withheld and thereafter, his services were terminated by issuing one month's notice under Rule 5(1) of the Central Civil Services (Temporary Service) Rules, 1965 and his name was

struck off from the strength of his office upon expiry of the notice period. Appeal preferred by the deceased petitioner was duly considered and rejected by the respondent authority, being devoid of merit.

13. Ms. Gayan, learned CGC, submits that the order of termination is not stigmatic or punitive in nature but is a termination simpliciter passed in accordance with the applicable rules governing a temporary government servant. She submits that the competent authority has the jurisdiction to pass the impugned order and the same has been issued strictly in terms of the relevant provisions. The ailment of the deceased petitioner appears to have pre-existed prior to his appointment and was not attributable to service conditions. More so, the writ petition suffers from delay and laches in as much as the impugned order was passed in the year 2006, whereas the writ petition has been filed after a considerable lapse of time. Therefore, she submits that the impugned termination order is absolutely legal and in accordance with law which requires no interference of this Court and as such, the writ petition is devoid of merit and is liable to be dismissed.

14. I have considered the submissions of learned counsel for the parties and also perused the materials placed on record.

15. The deceased petitioner was offered appointment to the post of Constable (General Duty) vide order dated 02.06.2004 and was directed to report before the Additional DIGP, Group Centre, CRPF, Amerigog, Guwahati on 22.06.2004 along with the offer letter and was sent to 168 Battalion, CRPF, Gandhinagar for undergoing basic training. The deceased petitioner underwent a substantial portion of his training at Gandhinagar, Gujarat. While undergoing the training, he left the camp on 20.01.2006 while proceeding to Civil Hospital, Ahmedabad, without any intimation to the authority. On such conduct, the respondent

authorities issued communications directing the deceased petitioner to report for duty.

16. Subsequently, vide various communications, the father and the family members informed the respondent authorities regarding illness of deceased petitioner and medical treatment. The deceased petitioner was called upon to submit proper medical documents in support of his claim and to resume duty as though certain medical documents were submitted, but the same were found to be inadequate. As per the medical certificate dated 23.02.2006 issued by the treating doctor, the deceased petitioner was declared fit to resume duty, however, he failed to report for duty. Thereafter, further opportunities were appears to have been granted by directing him to report for duty along with original medical documents.

17. Under such circumstances, as the deceased petitioner remained absent from duty for a prolonged period, was treated as a deserter with effect from 20.01.2006. Consequently, the services of the deceased petitioner was terminated by issuing one month's notice under Rule 5(1) of the Central Civil Services (Temporary Service) Rules, 1965.

18. Rule 16 of the CRPF Rules 1955, provides that all members of the Force shall be enrolled for a period of 3(three) years; during this period of engagement, they shall be liable to discharge at any time on one month's notice by the appointing authority. Those not given substantive status shall be considered for quasi-permanency under the provisions of Central Civil Services (Temporary Service) Rule 1965. Thus, for all practical purposes, the petitioner was a probationer or trainee at the relevant period of his service. Moreso, he has not completed the training period and as such the Rules of 1965 Rules would be applicable to the deceased petitioner.

19. The Desertion has been categorized as more heinous offence under section 9 of the CRPF Act, 1949, while unauthorized absence has been classified as less heinous offence under section 10 of the said Act. The service of the deceased petitioner has been terminated on the ground of desertion and unauthorized absence, the offences classified under sections 9 and 10 of the 1949 Act.

20. From the perusal of the materials on record, it transpires that the deceased petitioner has left the training camp without any intimation to the authority due to his illness and had undergone medical treatment. The father of the petitioner intimated the respondent authority about the illness and undergoing treatment of the deceased petitioner and subsequently a medical certificates issued by the treating doctor were also sent to the respondent authority with acknowledgement. If it was the position, it cannot be said that the petitioner wilfully and deliberately deserted the Force and if at all the deceased petitioner has committed any prescribed offence under the CRPF Act, 1949 which is a less heinous offence, can attract only a minor punishment under section 11 of the said Act. Under such circumstances, it could be held that the impugned order of termination is stigmatic as the impugned termination of services is founded on certain allegations.

21. However, it is noticed that the deceased petitioner had remained absent without authorization and failed to report for duty despite being declared medically fit by the treating doctor at one stage, although the illness and medical treatment were informed to the respondent authorities by his family members. It is needless to observe that under such situation of illness and medical treatment certain procedure is in place to be followed by the deceased

petitioner which he had failed to follow. In such view of the matter, the respondent authorities appear to be justified in taking action which is in accordance with law. Be that as it may, since the petitioner has unfortunately expired, this court would refrain from making further comments as no relief could be granted to the deceased petitioner.

22. In the facts and circumstances of present case, this court is of the view that it would be futile to consider the authorities relied on by the learned counsel for the parties except to observe that the ratio of **Dipti Prakash Banerjee** (Supra) and **Ex. Ct /GD Pinku Kumar Paul** (Supra) would have been applied to the present case, but of no avail.

23. In view of what has been discussed herein above, this court is of the considered view that no relief can be granted to the deceased petitioner. Accordingly, writ petition stands dismissed and disposed of.

JUDGE

Comparing Assistant