

W.A(MD)No.1127 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD)No.1127 of 2023
and
C.M.P(MD)No.8636 of 2023**

The Commandant,
202 Cobra, Sunabeda,
Central Reserve Police Force,
Koraput, Odisha.

... Appellant /
4th Respondent

Vs.

1.G.Dhanapal

... Respondent /
Petitioner

2.The Union of India,
Represented by its
Secretary to Government,
Ministry of Home Affairs,
New Delhi.

3.The Director General,
Central Reserve Police Force,
CGO Complex,
Lodhi Road,
New Delhi – 110 003.



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4.The Inspector General Communication,
Central Reserve Police Force,
Cobra Sector, CGO Complex,
Lodhi Road, New Delhi – 110 003.

5.The Accounts Officer,
202 Cobra, Sunabeda,
Central Reserve Police Force,
Koraput, Odisha.

... Respondents 2 to 5 /
Respondents 1 to 3 & 5

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to allow the Writ Appeal by setting aside the order dated 22.02.2022 in W.P(MD)No.1702 of 2014 on the file of this Court.

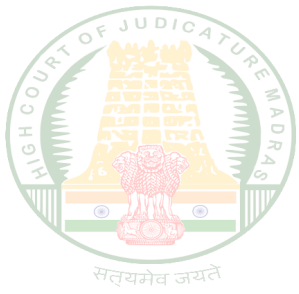
For Appellant : Mr.K.Govindarajan
Deputy Solicitor General of India

For Respondents : M/s.K.Hemakarthiskeyan
for R.1

JUDGMENT

(By G.R.SWAMINATHAN, J.)

This appeal is directed against the order dated 22.02.2022 passed by the learned single Judge allowing W.P(MD)No.1702 of 2014 filed by the first respondent herein (hereinafter referred to as the writ petitioner).

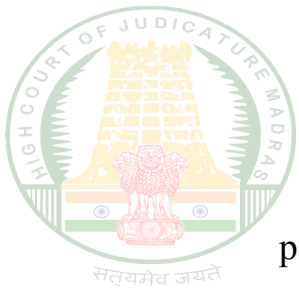


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2. The writ petitioner joined CRPF as Sub Inspector of Police on 15.02.2003. He resigned his job on 12.04.2012. The writ petitioner wanted to join BHEL as Sub Inspector. The CRPF directed the writ petitioner to deposit a sum of Rs.1,67,017/- (Rupees One Lakh Sixty Seven Thousand and Seventeen only) towards the training charges. The said amount was deducted from the terminal benefits paid to the writ petitioner. Thereafter, the writ petitioner submitted representation to CRPF requesting that he may be paid prorata pension for a period of service put in by him. The writ petitioner invoked office memorandum bearing No.28016/5/85-Estt.(C) dated 31.01.1986 in support of his claim. However, his request was rejected. Challenging the same, the aforesaid writ petition was filed. The learned single Judge vide order dated 22.02.2022 allowed the writ petition in the following terms:

“9. In this case, on perusing the representation of the petitioner for discharge, it is seen that the petitioner was having an oscillation in mind for resignation and hence he has used the word as “discharge”. The petitioner has shown inclination to settle to a normal civilian life. The Government has granted benefit to the employee, on superannuation, the permanent Government servants are entitled to pro rata pension. The petitioner is still in BHEL service on attaining superannuation, based on this notification, the petitioner is entitled to pro rata



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pension by taking CRPF service as well as civil service in BHEL.

10. The contention of the respondents that under Rule 12 the employee would be entitled to “No Objection Certificate” only if he registers for a higher post seems to be very impractical. If a person is choosing a job which is less tension or which is not as tough as CRPF job, it is his prerogative right. The respondents cannot impose condition that he should take up a job, above the job he was holding. Therefore, the contention of the respondents that he has taken up a job below the rank of the job he was holding in CRPF is erroneous and nonimplementable.

11. The respondents also submitted that the Government of India had issued a notification on 28.12.2002, thereby, the Central Civil Service Pension Rules, 1972, was sought to be amended wherein, after Sub Rule 11 in Rule 37 A was sought to be amended and inserted as under:

“No.4/61/99-P&PW(D)

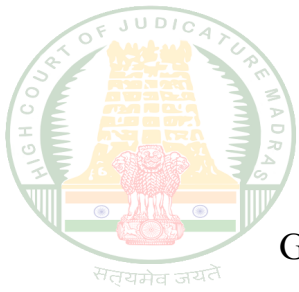
Government of India

Ministry of Personnel, Public Grievances and Pensions
(Department of Pension and Pensioners' Welfare)

New Delhi, December 28, 2002.

NOTIFICATION

S.O 4000- In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor



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General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely:-

1.(1)These rules may be called the Central Civil Services (Pension) Amendment Rules, 2002.

(2) They shall Come in to force on the date of their publication in the Official Gazette. 2.In the Central Civil Services (Pension) Rules, 1972, in rule 37 A.

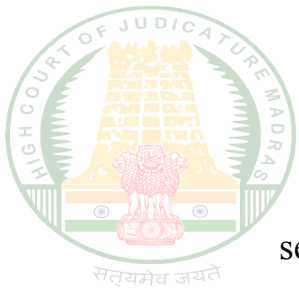
(a) after sub rule (8), the following explanation shall be inserted, namely:-

“EXPLANATION:

The amount of pension/family pension of the absorbed employee on superannuation from public sector undertaking/autonomous body shall be calculated in the same way as would be the case with a Central Government servant, retiring on superannuation, on the same day”:

(b) after sub-rule (11), the following shall be inserted, namely:-

“(11 A) A permanent Government servant absorbed in a public sector undertaking/autonomous body or a temporary/quasi permanent Government servant who has been confirmed in the public sector undertaking/autonomous body subsequent to his absorption therein, shall be eligible to seek voluntary retirement after completing 10 years of qualifying service with the Government and the autonomous body/public



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sector undertaking taken together, and he/she shall be eligible for prorata pensionary benefits on the basis of combined qualifying service”:

(c)in sub-rule (24) in clause (c), for the word “review” the word “confirmation” shall be substituted.

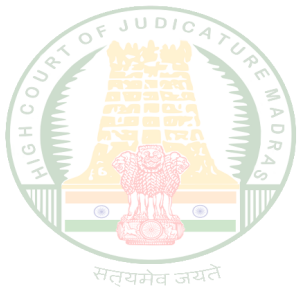
(Sujit Datta)

Director (PW)”

12.The petitioner is having 10 years of service with the Government (in the present case CRPF) and the autonomous body/public sector undertaking (in the present case BHEL) taken together, then the employee is entitled to pro rata pension on the basis of combined qualifying service.

13. Therefore, the respondents are directed to give no objection certificate so that the petitioner is entitled to gratuity. As far as the remittance of training charges are concerned, the petitioner has put in 9 years of service in CRPF and the petitioner has taken up public sector undertaking i.e. BHEL job. Therefore, the petitioner is not liable to pay any training charges and he has served the country for 9 years. Therefore, the impugned orders are set aside and this Court is of the considered view that the petitioner is entitled to all reliefs and the respondents are directed as following:

- a. To repay the training charges to the petitioner.
- b. To issue no objection certificate to the petitioner for taking up civil job in BHEL.



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c. To approve the discharge letter as a permission letter and grant technical resignation.

d. To confirm with all benefits as per Rules and regulations.

e. The respondents are directed not to insist on the six months period to exercise the option and this Court has condoned the delay.

14. Before concluding the Writ Petition, this Court directs the first and second respondents, especially whenever a person, who is serving in Army, CRPF, CISF, Border Security Force and other tough jobs are seeking resignation or discharge, a counselling should be given to them to make them understand the consequences of their resignation or discharge and whatever is beneficial to such employees ought to be granted. The first and second respondents are directed to take this observation seriously and implement it in letter and spirit.

15. With this observation, the Writ Petition is allowed.
No costs.”

Aggrieved by the said order, this Writ Appeal has been filed.

3. It is true that Clause 4 of office memorandum dated 31.01.1986 provides for payment of pro rata pension to an employee who had left CRPF. But then, this rule can be invoked only by a person who had taken proper permission to join another service. In the case on hand, when the writ



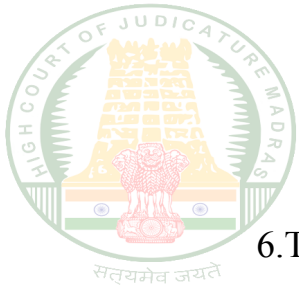
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petitioner made a request to appear in the examination conducted by BHEL,

Trichy for the post of Sub Inspector of Police, his request was rejected vide order dated 30.11.2011. It is true that other battalions of CRPF have taken a more indulgent view. But then, in the case of the petitioner the request was denied. Therefore, the aforesaid rule cannot be pressed into service by the writ petitioner.

4.The fact remains that the writ petitioner resigned his job as Sub Inspector in CRPF. When an employee resigns, it leads to forfeiture of one's past service. The learned single Judge had taken note of the fact that the writ petitioner had served in Cobra Battalion which is very tough and life threatening assignments.

5.We can very well understand the judicial sentiments. But then, as a Court of law we have to apply the rule as such. In this view of the matter, we are constrained to interfere. However, taking into account the special facts and circumstances, we sustain the direction given by the learned single Judge to repay the training charges to the writ petitioner. This shall be done within a period of twelve weeks from the date of receipt of a copy of this order. The order passed by the learned single Judge is set aside in other respects.



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6.This Writ Appeal is partly allowed. There shall be no order as to costs.

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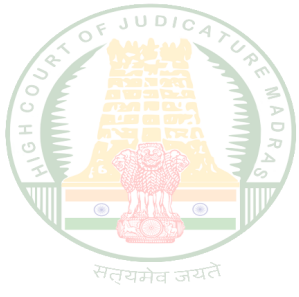
Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [K.R.S., J.]
07.08.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

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Union of India,
Ministry of Home Affairs,
New Delhi.
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CGO Complex,
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