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UNION OF INDIA AND ORS.

v.

AMAR SINGH

NOVEMBER 23, 2007

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[TARUN CHATTERJEE AND P. SATHASIVAM, JJ.]

*Central Reserve Police Force Rules, 1955—rr. 42, 14 & 27—  
Central Reserve Police Force Act, 1949—s. 11 & 18—CRPF constable  
dismissed for having entered service by submitting fictitious  
certificate—His prayer for grant of pensionary benefits—Allowed by  
trial court and first appellate court—High Court, dismissed second  
appeal in limini holding that Rule 24 of the CCS (Pension) Rules did  
not govern the service conditions of respondent—Held: Rule 42 of  
CRPF Rules, which provides that even for CRPF personnel/force, Civil  
Service Regulations or Pension Rules are applicable, was not brought  
to notice of High Court—High Court wrongly concluded that CCS  
(Pension) Rules were not applicable, and made no discussion on  
merits—Matter remitted to it for fresh disposal on merits—Central  
Civil Services (Pension) Rules, 1972—r. 24.*

**The respondent was enrolled as a constable in the Central Reserve Police Force. More than 29 years after his enrollment, respondent was found to have entered service by submitting fictitious school leaving certificate. He was held guilty under section 11(1) of the Central Reserve Police Force Act, 1949 read with Rule 27 of the CRPF Rules, 1955 and dismissed from service. He filed civil suit praying for reversal of the dismissal order and for grant of pensionary benefits for the past service rendered. Both the trial court and the first appellate court upheld the validity of the dismissal order but directed grant of pensionary benefits to respondent. High Court, held that Rule 24 of the CCS (Pension) Rules did not govern the service conditions of respondent, and dismissed the second appeal in limine. Hence the present appeal.**

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**Allowing the appeal, the Court**

**HELD: 1.1.** The provisions of Central Reserve Police Force Act, 1949 and Central Reserve Police Force Rules, 1955 are applicable to the respondent. By virtue of Section 18 of the Act, the Central Government framed the Central Reserve Police Force Rules, 1955. Rule 42, which speaks about pensions and gratuities for service in the Force, makes it clear that even for the personnel/force in Central Reserve Police Force, Civil Service Regulations or Pension Rules are applicable. [Para 9] [503-F, G; 504-D]

**1.2.** It is seen that Rule 42 of the Central Reserve Police Force Rules, 1955 has not been brought to the notice of the High Court. Inasmuch as the High Court has dismissed the second appeal only on this ground, it is but proper to remit the matter to the High Court to consider the claims of the parties on merits. [Para 9] [504-F, G]

**2.** As regards the claim of the respondent that irrespective of the order of dismissal/removal he is entitled to pension and gratuity for the past service rendered by him, this Court is refraining from expressing any opinion on merits, in view of its conclusion to remit the matter to the High Court. However, it is reiterated that a person who seeks equity must come with clean hands. Also equity jurisdiction cannot be exercised in the case of a person who got the appointment on the basis of a false certificate by playing a fraud. [Para 10] [505-C, D]

*Union of India and Ors. v. Ghulam Mohd. Bhat*, [2005] 13 SCC 228; *Ram Saran v. IG of Police, CRPF and Ors.*, [2006] 2 SCC 541; *Shri Krishnan v. The Kurukshetra University, Kurukshetra*, [1976] 1 SCC 311 and *Major G.S. Sodhi v. Union of India*, [1991] 2 SCC 371, referred to.

**3.** In so far as the plea of the respondent that it was not open to the authorities to verify his particulars after a lapse of 29 years and 7 months of service, Rule 14 of the Central Reserve Police Rules enables the authorities concerned to verify the particulars with regard to the same as soon as the person concerned has been inducted into the Force. It is not stated anywhere that “false” or “fake certificate” of education is to be verified immediately as stated in sub-clause (a) of Rule 14. On

A **the other hand, it is the responsibility of the person who seeks employment to place authenticated certificate about his educational qualification and community etc. [Para 11] [505-E, G, H; 506-A]**

B **4. The High Court wrongly concluded that the CCS (Pension) Rules were not applicable and made no discussion on merits of the case. The matter is, therefore, remitted to High Court for fresh disposal.**

**[Para 12] [506-B]**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 5367 of 2007.

C From the final Judgment and Order dated 27.9.2004 of the High Court of Punjab and Haryana at Chandigarh in R.S.A. No. 3891 of 2004.

Binu Tamta (for Sushma Suri), for the Appellant.

D Shweta Kapoor (for Anis Ahmed Khan), for the Respondent.

The Judgment of the Court was delivered by

**P. SATHASIVAM, J.** (1) Leave granted.

E (2) Challenge in this appeal is by the Union of India and its  
F functionaries to the judgment dated 27.09.2004 rendered by a learned Single Judge of the High Court of Punjab and Haryana at Chandigarh holding that the services of the respondent-herein are governed by the Central Reserve Police Force Act, 1949 (in short "the Act") and Rule 24 of the Central Civil Services (Pension) Rules, 1972 does not govern the service conditions is without jurisdiction.

(3) The factual position in a nutshell is as follows:-

G The respondent herein was enrolled as Constable in the Central Reserve Police Force on 28.02.1968. At the time of enrolment, he had  
H submitted a certificate regarding his qualification. After completion of 29 years and 7 months of service, in order to verify the service rendered by him to determine the qualifying service with regard to pension, it has been observed by the Pay and Accounts Office that his date of birth has been amended in the School Leaving Certificate without any authority.

Therefore, the Pay and Accounts Office directed OC Gurgaon to verify A  
the authenticity of the School Leaving Certificate and intimate the actual  
date of birth in respect of the respondent herein from the School  
Authorities. The School Authorities, vide their letter No.E-2/638 dated  
26.08.1996 and letter dated 05.03.1997, confirmed that the School  
Leaving Certificate is fictitious and bogus and not issued by them. On the B  
basis of the report received from the School Authorities, a departmental  
enquiry was ordered against the respondent herein. Consequently, on  
05.05.1997, Shri Puran Singh Asst. Commandant was appointed as  
Enquiry Officer to enquire into the charges. On completion of the enquiry,  
the Enquiry Officer submitted his report and found that the articles of C  
charges framed against the delinquent were substantiated vide prosecution  
as well as defence evidence cited as proof and it was established that the  
School Leaving Certificate submitted by him at the time of enrolment was  
fake which was also confirmed by the concerned school. A copy of the  
Enquiry Report was provided to the respondent herein asking for his D  
representation if any, within a period of 15 days, but he did not submit  
anything new for consideration.

After the charges leveled against the respondent herein having been  
proved beyond doubt, he was found guilty under Section 11(1) of the E  
Act read with Rule 27 of the CRPF Rules, 1955, on 20.09.1997 and  
was removed from service.

Aggrieved by the dismissal order, on 01.02.2000, the respondent  
herein filed a civil suit in the Court of Civil Judge (Sr. Division), Narnaul,  
*inter alia*, praying that the order of dismissal was bad and without F  
jurisdiction and that he may be granted pensionary and retiral benefits.

The learned Civil Judge, on 22.10.2002, decreed the suit of the  
respondent herein holding that the dismissal order was passed as per law  
but he was entitled to pension, gratuity, provident fund etc. Aggrieved by G  
the said judgment, the appellants herein filed Civil Appeal No. 418 of  
2002 in the District Court, Narnaul praying for setting aside the same.  
The learned District Court, vide order dated 28.02.2004, dismissed the  
appeal of the appellants-herein by holding that the decision of the trial  
court was correct and based on proper appreciation of evidence and H

A proper application of law and came to the conclusion that in view of the provisions of Section 2 of CCS (Pension) Rules 1972, Rule 24 of the said Rules would not be applicable to the respondent herein who is governed by the provisions of the CRPF Act, 1949. Aggrieved by the same, the appellants herein moved R.S.A. No. 3891 of 2004 before the High Court of Punjab and Haryana at Chandigarh. A learned Single Judge of the High Court, by order dated 27.09.2004, dismissed the appeal of the appellants herein holding that there was no infirmity in the order of the courts below and held that the services of the respondent was governed by the provisions of the Act and the provisions of Rule 24 of the Central Civil Services Rules does not govern the service conditions of the respondent herein. Questioning the order of the learned Single Judge of the High Court, the appellants have filed the above appeal by way of special leave.

D (4) We have heard Ms. Binu Tamta, learned counsel, appearing for the appellants and Ms. Shweta Kapoor, learned counsel, appearing for the respondent.

E (5) Ms. Binu Tamta, learned counsel appearing for the Union of India by drawing our attention to the relevant provisions of the Central Reserve Police Force Act, 1949, the Central Reserve Police Force Rules, 1955 and the CCS (Pension) Rules, 1972 submitted that the High Court committed an error in concluding that Rule 24 of the CCS (Pension) Rules would not be applicable to the respondent herein and in the absence of any provision in the CRPF Rules that provide for forfeiture of past service F in case of dismissal or removal from service, he was entitled to pensionary benefits after dismissal from service. On the other hand, Ms. Shweta Kapoor, learned counsel appearing for the respondent, submitted that in the absence of specific provision either in the Act or Rules governing Central Reserve Police Force, the Courts below including the High Court G were right in rejecting the stand of Central Reserve Police Force. She also contended that in view of the fact that no specific order forfeiting the past service in the order of dismissal from service, the authorities were not entitled to forfeit pension or other benefits.

H (6) We have carefully considered the rival submissions with reference

to the pleadings and also perused the annexures and records filed along with this appeal. A

(7) Before answering the above question, it is relevant to refer to the impugned order passed by the learned Single Judge of the Punjab and Haryana High Court which reads as under:- B

“Services of the respondent in the present case are governed by Central Reserve Police Force Act, 1949. Rule 24 of the Central Civil Services (Pension) Rules, 1972 does not govern the service conditions of the respondent. C

Learned counsel for the appellants could not point out to me as to under which rule or section, forfeiture of past service of the respondent can be done in case of dismissal. C

No substantial question of law involves in this appeal. D

I do not find any infirmity in the judgment dated 28.02.2004 of the Additional District Judge, Narnaul. D

Dismissed.”

It is clear that the learned Judge after finding that Rule 24 of the CCS (Pension) Rules does not govern the service conditions of the respondent and finding no substantial question of law dismissed the second appeal *in limine*. E

(8) After going through the relevant provisions as pointed out by learned counsel for the Union of India, we are unable to accept the conclusion arrived at by the High Court for the following reasons: F

(9) It is not in dispute that the provisions of Central Reserve Police Force Act, 1949 and Central Reserve Police Force Rules, 1955 are applicable to the respondent herein. By virtue of Section 18 of the Act, the Central Government framed the Central Reserve Police Force Rules, 1955. Among the Rules, we are concerned with Chapter VIII and, more importantly, Rule 42 which speaks about pensions and gratuities for service in the Force. Rule 42 reads as follows: G

A “42. *Pension.*- (a) Pensions and gratuities for service in the Force shall be regulated according to the provisions contained in Chapters XV to XXI and XLVII and XLVIII of the Civil Service Regulation as may be amended from time to time and the new Pension Rules promulgated in the Government of India in the Ministry of Finance  
B Memorandum No. F.3(1)E(Spl)/47, dated the 17th April, 1950 as may be amended from time to time.

(b) Pensions and gratuities to enrolled followers for service in the Force shall be governed by provisions contained in the Central  
C (Class IV) Services (Gratuity, Pension and Retirement) Rule, 1936 and the New Pension Rules published in the Government of India in the Ministry of Finance Memorandum No.F3(1)E(Spl)/47, dated the 17th April, 1950, as may be amended from time to time.”

The above referred provision makes it clear that even for the personnel/  
D force in Central Reserve Police Force, Civil Service Regulations or Pension Rules are applicable. In fact, except Rule 42 clarifying that in respect of pensions and gratuities for persons in the Force, certain provisions of civil service regulations and pension Rules promulgated  
E Ministry of Finance, Government of India are applicable no other provision speaks about the same. Rule 24 of the CCS (Pension) Rules reads as under:-

F “24. *Forfeiture of service on dismissal or removal.* - Dismissal or removal of a Government servant from a service or post entails forfeiture of his past service.

It is seen that the above provision particularly Rule 42 of the Central Reserve Police Force Rules, 1955 has not been brought to the notice of the High Court. Inasmuch as the High Court has dismissed the second  
G appeal only on this ground, in view of the present position as rightly pointed out by learned counsel for the appellants, it is but proper to remit the matter to the High Court to consider the claim of both parties on merits.

(10) Learned counsel for the Union of India placed reliance on two recent judgments of this Court, namely, *Union of India and Ors. v. Ghulam Mohd. Bhat*, [2005] 13 SCC 228 and *Ram Saran v. IG of*  
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*Police, CRPF and Ors.*, [2006] 2 SCC 541 and submitted that the right of pension and monetary benefits can be given only if the appointment was valid and legal. According to her, in view of the conclusion of the Courts below (trial and lower appellate Court) and in the light of the fact that the respondent who entered service by producing false educational certificate, does not deserve any sympathy or indulgence or equity from this Court. Equally learned counsel appearing for the respondent, placing reliance on the decisions of this Court in *Shri Krishnan v. The Kurukshetra University, Kurukshetra*, [1976] 1 SCC 311 and *Major G.S. Sodhi v. Union of India*, [1991] 2 SCC 371 submitted that irrespective of the order of dismissal/removal the respondent is entitled to pension and gratuity for the past service rendered by him. In view of our conclusion to remit the matter to the High Court, we are not expressing any opinion on merits. However, we reiterate that a person who seeks equity must come with clean hands. We also reiterate that equity jurisdiction cannot be exercised in the case of a person who got the appointment on the basis of a false certificate by playing a fraud.

(11) Learned counsel for the respondent by drawing our attention to Rule 14 of the Central Reserve Police Rules submitted that it is incumbent on the part of the authorities to verify as soon as he is enrolled in the Force and they are not permitted to do the same after 29 years and 7 months of service. The said Rule reads thus:

“14. *Verification.*- (a) As soon as a man is enrolled, his character, antecedents, connections and age shall be verified in accordance with the procedure prescribed by the Central Government from time to time. The Verification Roll shall be sent to the District Magistrate or Deputy Commissioner of the District of which the recruit is a resident.”

A reading of the said Rule clearly stipulates that after enrolment in the Force, his ‘character’, ‘antecedents’, ‘connections’ and ‘age’ shall be verified in accordance with the procedure prescribed. In other words, the said Rule enables the authorities concerned to verify the particulars with regard to the same as soon as the person concerned has been inducted into the Force. It is not stated anywhere about “false” or “fake certificate”



A of education is to be verified immediately as stated in sub-clause (a) of Rule 14. On the other hand, it is the responsibility of the person who seeks employment to place authenticated certificate about his educational qualification and community etc.

B (12) In view of our conclusion and of the fact that the High Court has wrongly concluded that CCS (Pension) Rules are not applicable and in the light of the fact that no discussion on merits of the case, we set aside the impugned order of the High Court and remit the same to the High Court for fresh disposal. Inasmuch as the High Court dismissed the RSA *in limine* and in the light of the legal position as pointed out above,  
C the High Court is requested to decide the issue after affording opportunity to both parties. As observed earlier, both parties are free to put-forth their respective claim/stand before the High Court by placing all the relevant materials which support their case and it is for the High Court to consider  
D the same expeditiously.

(14) Civil Appeal is allowed to this extent as indicated above. No costs.

B.B.B.

Appeal allowed.