

IN THE HIGH COURT OF KARNATAKA AT  
BANGALORE

DATED THIS THE 18<sup>TH</sup> DAY OF AUGUST 2011

BEFORE

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

WRIT PETITION No.1347 OF 2009 (S-DIS)

BETWEEN:

Ex.No.913096895  
CT/GDJ Sampath Kumar,  
S/o.Jayaraman,  
Aged about 39 years,  
Village:Madikuppam,  
Post:Nakkalpatti,  
Via-Mathur,  
District: Krishnagiri 635 203,  
Tamilnadu.

...PETITIONER

(By Shri.Mallikarjun C.Basareddy, Advocate)

AND:

1. The Inspector General,  
CRPF – Southern Sector,  
Road No.10C, Jubilee Hills,  
Near MLA/MP Colony,  
Gayathri Hills,  
Hyderabad 500 033 (A.P.)

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2. The Appellate Authority and  
Deputy Inspector General of Police,  
Nrupathunga Road,  
Bangalore.
3. The Commandant – 91 Bn,  
Central Reserve Police Force,  
Channi Himmat,  
Jammu (J&K).
4. The Deputy Commandant - 91 Bn,  
CRPF, Channi Himmat,  
Jammu (J&K)

...RESPONDENTS

(By Shri. M.V.Chandrashekar Reddy, Advocate)

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This Writ Petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the order passed by the 1<sup>st</sup> respondent dated 9.12.2008 produced at Annexure-Tribunal and etc.

This Writ Petition is coming on for Hearing this day, the court made the following:

**ORDER**

Heard the learned counsel for the petitioner and the respondents.

2. The facts briefly stated are as follows:

The petitioner was appointed as a Constable in the Central Reserve Police Force (hereinafter referred to as 'the CRPF' for brevity), Avadi, Chennai. He was to undergo basic training at Chennai upto August 1991 and thereafter he was posted to Commandant 115 Battalion, Rampur, Uttar Pradesh for a further training for a period of one year till May 1992. It is claimed that, thereafter, he was posted to Commandant 109 Battalion, Punjab and at various other places till 1997. In the month of July 1997, it transpires that he was posted to Group Centre, Yelahanka, Bangalore and he was asked to work there till August 2001. In the month of August 2001, he was posted to various places, namely, Srinagar, Assam, Nagaland and ultimately retransferred to Srinagar.

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3. It is the case of the petitioner that throughout the said period from the initial date of his appointment, there were no complaints against him and he had worked to the satisfaction of his superiors. When he was working at Bannihal in Jammu on general duty, the third respondent, the Commandant and the Assistant Commandant inspected the office of the Commandant 91 Battalion and without issuing any notice to the petitioner, had seized 9 live rounds of 7.62mm shells and 15 empty cases of AK 47 shells and the officers, without providing any further opportunity, even though the petitioner was not on duty, had taken the petitioner into custody and made an inquiry without any movement order from the higher authority.

4. He was thereafter placed under suspension by the third respondent on 12.12.2007 and a preliminary inquiry was also conducted whereby the statement of the petitioner was recorded. Thereafter, the petitioner had submitted a leave

application on 18.1.2008 and the same was not sanctioned, but a letter dated 12.2.2008 was issued refusing to grant the leave and directing the petitioner to undergo the inquiry which was initiated. The third respondent thereafter served Articles of Charge, which are as follows, against the petitioner.

ARTICLE-I

That the said No.913096895 CT/GD. J. Sampath Kumar of F/91 Bn CRPF, while functioning as CT/GD(coy writer) in F/91 Bn during the period from 05/12/07 to till date committed disobedience of orders/neglect of duty/remissness in the discharge of his duty/other misconduct or behaviour in his capacity as the member of the Force under Section 11 (1) of the CRPF, Act, 1949 in that he had unauthorisedly possession of 9 live rounds of 7.62 mm and 15 fired ammunition of AK-47 (empty case) which is prejudicial of discipline of the Force.

ARTICLE-II

That during the aforesaid period and while functioning in the aforesaid office, the said No. 913096895 CT/GD. J. Sampath Kumar of F/91 Bn CRPF, was guilty of disobedience of orders/neglect of

duty/remissness in the discharge of his duty/other misconduct in his capacity as a member of the Force under section 11(1) of the CRPF Act, 1949 that he had unauthorisedly possession of 38 Nos rubber stamps of various authorities and used for wrongful gain to self/others and misguided the department which is prejudicial of the discipline of the Force and gross misconduct.

ARTICLE-III

That during the aforesaid period and while functioning in the aforesaid office, the said No. 913096895 CT/GD. J. Sampath Kumar of F/91 Bn CRPF, was guilty of disobedience of orders/neglect of duty/remissness in the discharge of his duty/other misconduct in his capacity as a member of the Force in that he prepared a false medical re-imburement for fake claim in favour of his mother namely Smt. Baby Saroja aged 50 years Rs.5407-18 in F/91 Bn on 05/12/2007 by affixing the illegal official seal of Govt. Distt. Hospital and false signature of Govt. medical officer Krishnagiri (Tamil Nadu). Thus, he committed an act of gross misconduct in his capacity as a member of the Force which is punishable under section 11 (1) of the CRPF Act 1949.

ARTICLE-IV

That during the aforesaid period and while functioning in the aforesaid office, the said No 913096895 CT/GD. J. Sampath Kumar of F/91 Bn CRPF, is guilty of disobedience of orders/neglect of duty/remissness in the discharge of his duty/other misconduct in his capacity as a member of the Force in that he had unauthorized possession of blank pad of various hospitals/Doctors including Govt. hospital, M/s. Krishnagiri Scan Centre, Village Administrative Officers, unsigned service certificate, medical identity card etc and used to submit false medical claims/GPF withdrawal etc as wrongful gain to himself and others. Thus he committed an act of gross misconduct in his capacity as a member of the Force which is punishable under section 11 (1) of the CRPF Act 1949."

5. The petitioner did not choose to reply to the Articles of Charge. The third respondent then appointed the fourth respondent as the inquiry officer. At the inquiry, the petitioner again sought for leave to enable him to secure certain documents. It is stated that the petitioner thereafter withdrew the letter seeking leave. The inquiry was thereafter conducted

whereby eleven witnesses were examined by the respondents in support of the charges and the petitioner did not choose to lead any evidence in support of his defence and on the basis of the material evidence that was produced, the inquiry officer found that the charges had been proved and established. On the basis of which, the Disciplinary Authority has imposed the extreme punishment of dismissal from service. It is that which is sought to be questioned in the present petition.

6. The learned counsel for the petitioner would submit that as seen from the charges, the same are alien to each other and except charge no.1, the other charges are not relatable to the petitioner's conduct and are foisted on him without there being any basis and the evidence tendered on behalf of the respondent – authorities is that of other co-employees, who were under pressure to accede to the commands of the respondent – authorities and it is stereo-typed evidence which has been held against the petitioner. Whereas, it cannot be said



that the charges, especially, charge no.1 has been brought home. The learned counsel would submit that the background in which the articles were found in his possession, it is claimed by the petitioner that the ammunition, which was said to have been found in the custody of the petitioner was actually found on the campus on the previous night and before the petitioner could bring it to the attention of his superiors, the same was seized from his barracks and it was alleged that the petitioner had illegally held the said ammunition. Insofar the other charges are concerned, the petitioner was never afforded any opportunity to tender evidence in support of his defence that he had no role to play insofar as the allegations are concerned and in the absence of any opportunity of meeting the allegations, the inquiry stood vitiated for violation of principles of natural justice.

7. The learned counsel would point out that at more than one stage, the petitioner had requested opportunity to secure

documents from his home town and was denied such permission on grounds, which were wholly unjust, such as to indicate that the petitioner had not specified the documents or the material that he sought to produce in his defence and the same was flatly refused and this, therefore, is a serious infirmity which has denied the opportunity to the petitioner to meet the case foisted against him. It is this which is sought to be emphasized and reemphasized in addressing the findings against him.

8. The learned counsel for the respondent, on the other hand, in support of the statement of objections filed, would contend that respondent no.3 would have had no occasion to interfere with the petitioner's personal effects, if not, for credible information received that he was in possession of unauthorised rubber stamps and was using the same to prepare fake medical reimbursement claims and it was in that background that the third respondent alongwith the Assistant

Commandant had inspected the personal effects of the petitioner and it was in the course of such inspection that several rounds of ammunition, which is detailed in the Articles of Charge, were recovered apart from 38 numbers of rubber stamps of various State Government Hospitals, blank pads of various Government Hospitals and an unsigned Service Certificate. It was also found that the petitioner had made a fake medical reimbursement claim of his mother amounting to Rs.5,407/- for a period between 17.10.2007 to 22.10.2007, duly affixing the illegal official seal of the Government District Hospital, Krishnagiri with the fake signature of one Dr. R.Rajashekar, Medical Superintendent of the Government Hospital, Krishnagiri, who incidentally was found not to have been in service as on the relevant date. It is on the basis of this glaring material and evidence that was sought to be held against the petitioner in respect of the charges. Hence, the petitioner's purported explanation as to the manner in which live ammunition was found to be in his possession has not been

accepted by the authorities, on the basis of the findings at the inquiry, which is supported by the consistent evidence of several witnesses, who would have had nothing against the petitioner as they were colleagues and co-employees of the petitioner. It is on the basis of their dispassionate evidence that the findings have been arrived at against the petitioner.

9. The learned counsel would also point out that the contention that the petitioner was not afforded ample opportunity to meet the case of the respondents is unfounded. On the other hand, the petitioner did not choose to reply to the Articles of Charge. Though he had cross-examined some of the witnesses, the petitioner did not tender evidence on his behalf and it is on a close examination of the material evidence and the circumstances, that the inquiry officer has held that all the charges were proved beyond all reasonable doubt and it is on the basis of the same, that the punishment has been imposed. The Force to which the petitioner belonged requires a high

degree of discipline and fortitude and the slightest indiscipline or irregularity in the conduct of the member of the Force would warrant the extreme punishment which has been imposed on the petitioner in the light of the allegations and findings at the inquiry. Hence, he would submit that the facts and circumstances do not warrant interference by this court in its writ jurisdiction as the findings are findings of fact, which are based on material evidence and which cannot be assailed on mere assertions of the petitioner in the absence of material evidence to the contra and therefore, would submit that the petition be dismissed.

10. By way of reply, the learned counsel for the petitioner would contend that even if the charges are held to be proved against the petitioner, the extreme punishment of dismissal was not warranted and that a lesser punishment ought to have been considered in the circumstances of the case and therefore, he would plead that this court interfere on the quantum of

punishment as it is totally disproportionate to the alleged acts of misconduct.

11. Having regard to the above facts and circumstances and the nature of charges, the detailed inquiry report and the detailed findings, on the basis of which, the punishment is imposed, it is not a fit case where this court ought to reappreciate the evidence and address the findings of facts nor is it a case where it would warrant this court to reconsider the quantum of punishment in the absence of any circumstances that are made out by the petitioner. Accordingly, the petition does not merit consideration and is dismissed.

Sd/-  
JUDGE