

SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.8803 of 2019
[Arising out of SLP(C) No.1260 of 2018]

UNION OF INDIA & ORS.

APPELLANT(S)

VERSUS

ANIL KUMAR

RESPONDENT(S)

O R D E R

Leave granted.

The respondent in the present case was appointed as a constable in Central Reserve Police force (CRPF) on 25.8.2011. He was undergoing training when he informed the Hawaldar of his Company that he has fallen ill and he went to his native place for treatment. It is revealed that he took his treatment from G.S.V.M. Medical College, Kanpur from 12.11.2011 to 01.4.2012 as outdoor patient and received medical treatment from Head of Department (Psychiatrist) of the said Medical College. Thereafter, he obtained fitness certificate and submitted joining report on 02.4.2012. The Commandant, however, did not accept the joining report and issued a notice under Rule 5(1) of the Central Civil Services (Temporary Service) Rules, 1965 on 20.4.2012. After consideration, the appellant herein appeared before the commandant and submitted his medical prescriptions. The appellant, however, submitted his explanation which was not found satisfactory and he was terminated from service by simpliciter order of termination.

Even if the absence of the appellant may have been the reason for the termination, it was definitely not the foundation of the same. Here was a person who had just been inducted in the service and then absented himself within three months of his joining and the only explanation given is that he was under treatment as an OPD patient.

There is no application for grant of leave. There is no material placed on record that he ever obtained leave. Therefore, we are clearly of the view that the High Court erred in setting aside the order of termination. The order of termination was not stigmatic but was a simpliciter order of termination.

It would be pertinent to mention that in a disciplined force permitting such a person who does not follow rules to continue in service, would ruin the force totally.

The appeal is accordingly allowed. The order of the High Court is set aside and the Writ Petition filed by the respondent is dismissed.

Pending application, if any, shall stand disposed of.

.....J.
[DEEPAK GUPTA]

.....J.
[ANIRUDDHA BOSE]

NEW DELHI;
18TH NOVEMBER, 2019

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.8803/2019 arising out of special leave petition (c)
No.1260 of 2018

UNION OF INDIA & ORS.

Appellant(s)

VERSUS

ANIL KUMAR

Respondent(s)

(IA No.135256/2017-CONDONATION OF DELAY IN FILING and IA
No.135259/2017-EXEMPTION FROM FILING O.T.

IA No. 135256/2017 - CONDONATION OF DELAY IN FILING
IA No. 135259/2017 - EXEMPTION FROM FILING O.T.)

Date : 18-11-2019 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Appellant(s) Mr. A. N. S. Nadkarni, ASG
Ms. Shirin Khajuria, Adv.
Ms. Nivedita Nair, Adv.
Mr. B. V. Balaram Das, AOR

For Respondent(s) Mr. Rituvendra Singh, Adv.
Mr. Abhinav Shrivastava, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of signed order.

Pending application, if any, shall stand disposed of.

(RASHMI DHYANI)
SENIOR PERSONAL ASSISTANT

(Signed order is placed on the file)

(PRADEEP KUMAR)
BRANCH OFFICER