

**P.S.Santhoshkumar Vs. Commandant, Csf**

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**Court :** Kerala

**Decided On :** Nov-04-2013

**Judge :** Honourable Mr. Justice a.V.Ramakrishna Pillai

**Appellant :** P.S.Santhoshkumar

**Respondent :** Commandant, Csf

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI MONDAY, THE 4TH DAY OF NOVEMBER 2013 13TH KARTHIKA, 1935 WP(C).No. 19820 of 2006 (H)

----- PETITIONER: ----- P.S. SANTHOSHKUMAR, S/O.P.A.SREEDHARAN, AGED 38 YEARS, PANACKAL HOUSE, BEACH WARD, ALAPPUZHA. [EX-CONSTABLE NO.914521008, R.T.C. PARADIP, ORISSA] BY ADV. SRI.B.N.SHIVA SANKAR. RESPONDENTS: ----- 1. THE COMMANDANT, CENTRAL INDUSTRIAL SECURITY FORCE UNIT, COCHIN PORT TRUST, COCHIN.

2. THE DEPUTY INSPECTOR GENERAL, CENTRAL INDUSTRIAL SECURITY FORCE, SOUTH ZONE HEADQUARTERS, 'D' WING RAJAJI BHAVAN, BASANT NAGAR, CHENNAI-90.

3. THE UNION OF INDIA, REPRESENTED BY THE SECRETARY TO MINISTRY OF HOME AFFAIR, NEW DELHI. BY SRI.P.PARAMESWARAN NAIR, A.S.G OF

INDIA. THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/11/2013, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Prv. W.P.(C).NO.19820/2006-H: APPENDIX PETITIONER'S EXHIBITS: EXT.P.1: COPY OF THE DISCHARGE CERTIFICATE DTD. 30/09/04. EXT.P.2: COPY OF THE APPLICATION MADE BY THE PETITIONER TO THE R2. DTD. 27/06/05. EXT.P.3: COPY OF THE

ORDER

OF R.2. DTD. 04/08/05. EXT.P.4: COPY OF THE REPRESENTATION FILED BEFORE THE R.1. DTD. 25/08/05. EXT.P.5: COPY OF THE

ORDER

OF R.1. DTD. 15/06/05. EXT.P.6: COPY OF THE

ORDER

OF THE R.1. DECLINING TO RE ENLIST THE PETITIONER IN SERVICE DTD. 21/10/05. RESPONDENTS' EXHIBITS: EXT.R1: COPY OF THE

ORDER

OF THE DEPUTY COMMANDANT, CISF UNIT, COCHIN DT. 21/04/2003. EXT.R1.A: COPY OF THE LETTER DTD. 01/09/2004 SUBMITTED BY THE PETITIONER. EXT.R1.B: COPY OF THE PARA117 (IV) OF CHAPTER XI OF CISF ESTABLISHMENT MANUAL DT. NIL. EXT.R1.C: COPY OF THE RULE26(4) OF CCS (PENSION) RULES DT. NIL. //TRUE COPY// P.A. TO JUDGE. Prv. A.V. RAMAKRISHNA PILLAI, J.

----- W.P.(C) No. 19820 of 2006  
----- Dated this the 4th day of November, 2013

## **JUDGMENT**

Ext.P6 order, by which the petitioner's application for reenlistment was declined by the 1st respondent, is under challenge in this writ petition.

2. According to the petitioner, he, who was working in the CISF and entitled for medical invalidation and pension thereon, was directed to resign from service.

After resignation from service, the petitioner submitted an application under Rule 58 of the CISF Rules, 1969, for reenlistment. This was dismissed by Ext.P6 order by the 1st respondent. According to the petitioner, the Rule stipulates that the 2nd respondent has to pass orders.

3. A detailed counter affidavit has been filed by the respondents, wherein it was stated that the respondent Department never compelled the petitioner to resign from service. It was contended that the petitioner W.P.(C) No. 19820 of 2006 ..2.. submitted his application dated 01.09.2004 seeking for resignation from the Force expressly revealing his intention to resign from service with effect from 25.09.2004 on account of purely personal reasons. In support of the said contention, the respondent has produced Ext.R1(a), which is the letter dated 01.09.2004 forwarded by the petitioner. According to the respondents, after receipt of Ext.R1(a), the 1st respondent had directed the petitioner to present in his office and the petitioner was heard in person as well. The petitioner had requested to accept his resignation due to personal reasons. The resignation was accepted by the 1st respondent and; the petitioner was relieved from service with effect from 30.09.2004. It was further alleged that the boarding out of service personnel on medical grounds is available only to those persons who are affected with contagious diseases. As per Rule 2 of CCS Medical Examination 1957, an employee can be subjected to a medical examination for the purpose of boarding out from W.P.(C) No. 19820 of 2006 ..3.. service only if he suffers from any contagious diseases; it was contended. It was also pointed out that the petitioner had, in fact, put in only 13 years and 8 months of service in the CISF. The petitioner, who was issued with the discharge certificate with effect from 21.05.2004, made Ext.P2 application dated 27.06.2005 requesting the 2nd respondent to reenlist him in service. It was contended that, on receipt of the aforesaid application, the 2nd respondent, vide Ext.P3, informed the petitioner that he has to apply through the Unit Commander of the Unit, in which he had served last. Accordingly, Ext.P4 representation was submitted by the petitioner to the 1st respondent on 03.09.2005. The reason for dismissing Ext.P4 representation vide Ext.P6 order, according to the 1st respondent, was that there is no provision to consider an application submitted by any of the service personnel after a lapse of 90 days from the date of resignation. This reason is also stated in Ext.P6. It was

also pointed out that the petitioner cannot claim W.P.(C) No. 19820 of 2006 ..4.. any benefit under Ext.P3 letter as the same was issued by the 2nd respondent only as an intimation to the petitioner to submit his application to the Unit Commander of the last Unit. In the light of the above, this Court feels that there is absolutely no reason for an interference and; therefore, this writ petition is dismissed. No costs. Sd/- A.V. RAMAKRISHNA PILLAI, JUDGE bka/-

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