

**Raj Kumar and anr. Vs. Director General of Police, Central Reserve Police Force and ors.**

**Raj Kumar and anr. Vs. Director General of Police, Central Reserve Police Force and ors.**

**SooperKanoon Citation :** [sooperkanoon.com/770220](http://sooperkanoon.com/770220)

**Court :** Rajasthan

**Decided On :** May-09-2007

**Reported in :** RLW2008(1)Raj881; 2009(2)SLJ96(Raj)

**Judge :** Ashok Parihar, J.

**Appellant :** Raj Kumar and anr.

**Respondent :** Director General of Police, Central Reserve Police Force and ors.

**Disposition :** Petition dismissed

**Judgement :**

**Ashok Parihar, J.**

1. The recruitment of Constable/General Duty, Central Reserve Police Force was held for the year 2002- 2003. After been selected, the petitioners were appointed on the post in question in February, 2003 in different units of CRPF. On the basis of information and complaints in regard to large scale irregularities committed by the Recruitment Board of Ajmer Center, a joint surprise check was conducted by the officers of the CBI as also the CRPF authorities and records of Ajmer Center were seized. After scrutiny of the entire records, it was found that there have been large scale manipulations in allotment of marks to the candidates. Many

candidates, in spite of securing pass marks, were declared fail, whereas, the candidates, not getting even pass marks, were declared pass by manipulations of their marks in the result sheet and even the answer sheets. Though, 188 candidates were declared pass in the written test, however, 70 candidates could not get through the medical examination. Out of 118 candidates, only 107 candidates joined after appointment been given. After investigation, the CBI prosecuted the Presiding Officer and Members of the Recruitment Board of Ajmer Center for the offence Under Sections 120-B read with Sections 420, 467, 468, 471 and 477-A IPC and Section 13(2) and 13(1)(d) of the Prevention of Corruption Act, 1988.

2. After considering the CBI report, the Disciplinary Authority of the CRPF came to the conclusion that there have been large scale irregularities committed by the Recruitment Board in the recruitment in question. It has also been noticed that undue favour has been given to 118 candidate's depriving the deserving candidates from selection. Therefore, 107 candidates, who got appointment, including the petitioners, having been found wrongful gainers and beneficiaries due to manipulations by Members of the Recruitment Board, taking recourse to Rule 27 of the CRPF Rules, 1955, the petitioners have been removed from service vide individual orders in January, 2006. The order of removal is under challenge in the above writ petitions.

3. The main challenge to the removal from service is that no opportunity of hearing was given to the petitioners prior to passing of the impugned orders. That apart, even procedure as provided under Rule 27 of the CRPF Rules for holding a regular departmental enquiry was not followed. While heavily relying on the Judgment of the Supreme Court in the case of Union of India and Anr. v. Tulsiram Patel : (1985)IILLJ206SC , it has been submitted that the departmental enquiry could not have been dispensed with in such a casual manner. It has further been submitted that no allegation against the individual petitioner have been made and if any irregularity has been committed by the Recruitment Board, the petitioners cannot be punished for the same. In the alternative, some of the learned Counsel appearing on behalf of the petitioners submitted that most of the petitioners have now become overage and if fresh selections are made, proper age relaxation

should be given to all the petitioners.

4. Learned Counsel for the respondents, on the other hand, while relying on the CBI report and referring to serious irregularities committed by the Recruitment Board, at the very initial stage, have justified the order of removal.

5. After having considered submissions of learned Counsel for the parties, I have carefully gone through the material on record, relevant Rules, Judgments cited at the Bar as also the CBI report as produced by learned Counsel for the respondents. The order of removal, more or less, is the same except for mentioning of name of individual petitioner in last part of the order. The entire order, as passed in the case of the petitioner Raj Kumar is reproduced here asunder:

Whereas, the Recruitment of Constable/GD CRPF was held at Ajmer (Rajasthan) during the year 2002-2003 and candidates selected therein were recruited as Constable/GD in CRPF. On the basis of source information that members of the recruitment board of Ajmer Centre have manipulated marks in the answer sheets of the candidates to extend undue favour disfavour to them, a joint surprise check was conducted by officers of CBI, Jaipur Branch and CRPF authorities of GC-1, CRPF, Ajmer where all records of recruitment were kept. After scrutiny of the records, it was found that there were lots of manipulations in the marks allotted to the candidates. Marks of 14 candidates were reduced as a result of which they have been declared fail in writing test. The investigation further revealed that 188 candidates, who could pass written test as a result of manipulation of marks by the board members, were subjected to medical examination at GC-II, CRPF, and Ajmer out of which 70 candidates could not get through the medical examination.

2. And, whereas, the CB1 investigation revealed that 118 candidates were initially evaluated and awarded marks on the basis of their performance in the written test. However, with the marks initially allotted to the candidates, they had either not secured minimum pass marks or were not figuring in the merit list. In order to ensure that these candidates figure in the merit list, the members of the recruitment board made manipulations in the answer sheets of these candidates before finalizing merit list by increasing their marks. In some case, the candidates

had ticked wrong choices in Part-A' (of question paper), however during evaluation 'tick' have been put on right choices with different pen and style and have been given marks. Similarly, in some cases marks have been given to wrong answers. The Board has also reduced marks of some candidates who could not get selected as Constable/GD.

3. And, whereas, it is also evident that marks of the candidates who had not secured passing marks have been increased in such a way that they have been allotted marks above passing marks and also the marks of the candidates who had already secured pass marks have been further increased to ensure that they figure higher on the merit list. Thus the CBI has completed the investigation and found that 118 candidates could get selected as constable/GD whose marks were increased by the Recruitment Board. Out of these 118 candidates only 107 had joined and appointed as Constable/GD which also include your name.

4. And, whereas, the CBI is prosecuting the Presiding Officer and Members of the said recruitment Board in Criminal Case No. RC-JAI-2003-A-0014 dated 7.7.2003 Under Section 120-B read with 420, 467, 468, 471 and 477A IPC and Section 13(2)/13(l)(d) of the Prevention of Corruption Act, 1988, It have gone through the report of the CBI and came to the conclusion that the members of the board manipulated marks in the answer sheets of the candidates to extend undue favour/disfavour to some candidates, it is also a fact that the Recruitment Board extend undue favour to 118 candidates to get selected and members of the Recruitment Board are facing prosecution in the aforesaid case of CBI, therefore, aforesaid 107 candidates are wrongful gainer and beneficiaries who could get selected as Constable/GD due to manipulation by members of Recruitment Board and this act is unbecoming of a Govt. Servant to get recruited dishonestly in CRPF which amounts to a misconduct.

5. Whereas, I am satisfied that in the facts and circumstances that a regular Department Enquiry Under Section of CRPF Act, 1949 as per procedure laid down in 27 of CRPF Rules, 1955 by serving written charge and following other procedure in the manner provided is not reasonably practicable since all 107 candidates (now Constable/GD) are posted in different Bsn at various places all

over the country, therefore, it will not be possible to collect them at one place. It will also not be possible to draw common proceedings because a regular departmental enquiry requires detailing of Enquiry Officers, the availability of Defence Assistant for each delinquent involving huge expenditure on the State exchequer.

6. And, whereas, the undersigned have considered all pros and cons of the case and report of the CBI and the options available. In view of the above, it is, therefore, deemed just and proper after applying judicious mind that the provisions under Rule 27(cc)(ii) of CRPF Rules, 1955 be invoked and that the penalty of removal from service be imposed on No. 031502479 Constable/GD Raj Kumar (Roll No. 26884). In exercise of powers conferred Under Rule 27(cc)(i) of CRPF Rules, 1955, the undersigned is convinced that a regular departmental enquiry is not reasonably practicable and expedient, therefore, the undersigned is constrained to order that No. 031502479 constable/GD Raj Kumar (Roll No. 26884) of 131 Bn CRPF, be removed from service from the date of serving of this order to the individual. Accordingly, he stands struck off from the strength of 131 Bn from the same date.

The Unit Commandant will ensure that all the pending/outstanding dues against the individual, if any, are recovered before his relief. The medals and decorations, if any, earned by said Constable/GD will stand forfeited with the issue of this order.

6. The above order speaks for itself. Rule 27(cc)(ii) of the CRPF Rules, 1955 gives discretion to the authority competent to impose a penalty for dispensing with an enquiry where it is not reasonably practicable to hold an enquiry in the manner provided Under the Rules. In the case of Tulsiram Patel (supra) the Apex Court has observed that the reasonable practicability of holding an enquiry is a matter of assessment to be made by the disciplinary authority. Such authority is generally on the spot and knows what is happening. A disciplinary authority is not expected to dispense with the departmental enquiry lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an enquiry or because the department's case against the government servant is weak and must fail. In the present case, the disciplinary authority has given reasons for dispensing with the

departmental enquiry. Since all 107 candidates were posted in different battalions at various places all over the country, as such, it was not possible to collect them at one place and draw a common proceeding.

7. Article 16 of the Constitution of India further envisages that there shall be equality of opportunity for all citizens in matters relating to employment or appointment or any office under the State. If the entire selection is vitiated on the ground of large scale irregularities and manipulations committed by the Recruitment Board, details of which have been given in the CBI report, the entire selection is liable to be set aside on the ground of violation of Article 16 of the Constitution of India. The order of removal in no way cast stigma on individual petitioner, as such; principles of natural justice are also not attracted in the present matter. So far as relaxation in age is concerned, it is for the competent authority Under the Rules to consider the circumstances and grant age relaxation in the given circumstances at appropriate stage. No directions as such can be issued by this Court in this regard.

8. Having considered entire facts and circumstances, looking to the nature of serious allegations made and a detailed enquiry already made by the CBI, no interference is called for by this Court under writ jurisdiction in such matters. The writ petitions are dismissed accordingly as having no merit.