

GAHC010082762025



2026:GAU-AS:12226

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/410/2025

THE UNION OF INDIA AND 4 ORS.
REPRESENTED BY THE SECRETARY, MINISTRY OF HOME AFFAIRS,
NORTH BLOCK, NEW DELHI-110001.

2: THE INSPECTOR GENERAL OF POLICE

CHATTISGARH SECTOR
CRPF
RAIPUR 492001

3: THE COMMANDANT

174 BN. CRPF
BILASHPUR
CHHATISGARH 495001

4: THE COMMANDANT

GROUP CENTRE
CRPF
BILASHPUR
CHHATISHGARH 495001

5: THE COMMANDANT

174 BN. CRPF
DAYAPUR
SILCHAR
ASSAM 78803

VERSUS

NO 115330082 EX RT/GD MUSTAQUE AHMED
S/O HARUN ISLAM, VILL- SRIKONA PART- II, PO- SRIKONA, DIST-

CACHAR, ASSAM-788026.

Advocate for the Petitioner : MR. S.K MEDHI,

Advocate for the Respondent : , MR M J QUADIR,MR. A K HANNAN

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

JUDGMENT & ORDER

(ORAL)

Date : 25.08.2026

(K.R. Surana, J)

Heard Mr. S.K. Medhi, learned CGC for the appellants, and Mr. M.J. Quadir, learned counsel for the respondent.

2. By filing this intra-court appeal, the appellants have assailed the impugned judgment and order dated 25.07.2024, passed by the learned Single Judge in W.P.(C) 4606/2020, thereby allowing the writ petition.

3. In brief, the case of the appellants is that the respondent, who was the writ petitioner, was selected for the post of Constable (General Duty) in the Central Reserve Police Force ("CRPF" for brevity) vide appointment letter dated 10.07.2010, issued by the Commandant, 147 Bn. CRPF. Accordingly, on 11.01.2011, the respondent joined his duty at Dayapur, Silchar, and upon joining, he was sent to the CRPF Training Centre, Neemuch, Madhya Pradesh. However, while undergoing training, he suffered injuries to both his knees. Accordingly, he was admitted to the Composite Hospital, CRPF, Neemuch on 22.12.2011. Thereafter, he was referred to the Composite Hospital, CRPF, New

Delhi, for further treatment and, thereafter, to Safdarjung Hospital, New Delhi. He was discharged from Safdarjung Hospital on 23.01.2012. He was thereafter referred to different hospitals from time to time and ultimately he was discharged on 09.02.2012.

4. On 26.03.2012, the respondent was issued a medical certificate of fitness to resume his duty by the Authorised Medical Attendant, Composite Hospital, CRPF, New Delhi, and he resumed his duties at Neemuch. However, after about two months, he again complained of pain in his left knee and was referred to the Composite Hospital, New Delhi on 08.06.2012, from where he was referred to Safdarjung Hospital on 23.06.2012.

5. As the respondent had to be hospitalised on several occasions, it would suffice to mention that even after issuance of a fitness certificate to him on 15.09.2012 at the Composite Hospital, New Delhi, he was hospitalised on several occasions from 01.02.2013 to 30.08.2014. Subsequently, the respondent was referred to a Medical Board. On 10.03.2015, the Medical Board opined that the respondent was not fit to undergo strenuous and rigorous physical training. Accordingly, by an order dated 27.04.2015, issued by the Commandant, Group Centre, CRPF, Bilaspur (C.G.), the service of the respondent was terminated under Sub-Rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 ("1965 Rules" for short).

6. Subsequently, by another order dated 10.06.2015, the earlier termination order dated 27.04.2015 was amended so as to make it an order under Rule 6 of the 1965 Rules.

7. Aggrieved by the order of termination, the respondent preferred an appeal before the Secretary to the Government of India, Ministry of Home

Affairs, New Delhi, under Sub-Rule (2)(a) of Rule 5 of the 1965 Rules. The said appeal was disposed of by observing that as per Rule 6 of the 1965 Rules, the respondent had been terminated on medical grounds and there was no provision for an appeal against such order.

8. The respondent, thereafter, approached this Court by filing a writ petition, which was registered as W.P.(C) 4498/2015. The said writ petition was disposed of by order dated 25.02.2020 with a direction to consider the case of the respondent in terms of Standing Order No. 04/2011, as amended (hereinafter referred to as "S.O.-04/2011"). Thereafter, the respondent was directed to appear before the Departmental Rehabilitation Board pursuant to an order dated 19.06.2020 and accordingly, he had reported before the Departmental Rehabilitation Board on 07.07.2020. However, the Departmental Rehabilitation Board, by its order dated 14.09.2020, rejected the case of the respondent for rehabilitation under the Rehabilitation Scheme.

9. The claim of the respondent was rejected on three grounds which are reproduced as follows:-

“(a) The petitioner has not completed his basic training and he will not be able to complete his basic training in future. He will not also be able to take any strenuous work since CRPF is a highly active and mobile Force where he has to take a lot of physical strain even to lead a normal life in the camp.

(b) The petitioner himself agrees to the aforesaid physical condition and requested some monetary compensation which is not permissible under the Rules.

(c) After examination of the physical and mental ability, aptitude, job requirements etc., the petitioner was not physically fit to be rehabilitated for any subsidiary role of CT/GD under the given rules and regulations.”

10. Accordingly, aggrieved by the order of his termination and the order of rejection by the Departmental Rehabilitation Board, the petitioner had filed a

writ petition, which was registered as W.P.(C) No. 4606/2020. The appellants had contested the writ petition. The learned CGC appearing for the appellants had submitted that the respondent had not challenged the termination order and in the absence of such challenge, he could not be granted the benefit claimed by him. In that respect, reliance was placed on the decision of the Supreme Court in the case of *Mukul Saikia & Ors. v. State of Assam & Ors.*, AIR 2009 SC 747. It was also contended that the matter be remanded to the Government for consideration of the respondent's entitlement to relief in terms of the Government Office Memorandum dated 04.08.2017, issued by the Ministry of Home Affairs, relating to cases involving disability and payment of *ex-gratia* lump-sum compensation.

11. It was further contended that the respondent was not entitled to any benefit under the Rehabilitation Scheme as he was not a member of the Force at the time of the accident but was only a trainee and had not completed his training. It was also contended that neither the training of the respondent was completed nor had the respondent taken the oath in terms of Rule 9 of the CRPF Rules, 1955. Accordingly, it was contended that the respondent was not entitled to the benefit of rehabilitation, as the said Scheme was intended for members of the Force and not for trainees.

12. The learned Single Judge, by placing reliance on the 1965 Rules and Section 2(d) of the CRPF Act, 1949, held that the respondent was a member of the Force, having been offered appointment by the Commandant on 10.07.2010. Accordingly, it was held that the respondent had been appointed in temporary capacity with a definite pay scale. It was further held that the respondent was enlisted as Constable (General Duty) on 11.01.2011 at the Group Centre, CRPF, Silchar, and was allotted to 174 Bn. CRPF, and after his

enlistment as Constable (General Duty), he was dispatched from the Group Centre, CRPF, Silchar, to Recruit Training College (RTC-I), CRPF, on 13.05.2011 for basic training. Resultantly, it was held that the respondent had been appointed to the Force and allotted to a particular Battalion. While rejecting the plea of non-completion of basic training, the learned Single Judge took note of the opinion of the Rehabilitation Board and rejected the contention that the respondent would not be able to take any strenuous work in the CRPF.

13. The learned Single Judge considered the object of S.O.-04/2011 and arrived at the conclusion that the same was intended for rehabilitation of disabled personnel of the Force. It was further held that the conditions for grant of rehabilitation were two-fold, i.e., that there were no signs or indications of improvement from the injury and secondly, that the person was not fit for normal active duty. It was also held that the exercises required to be carried out under S.O.-04/2011 had not been undertaken in the case of the respondent and that his case had been erroneously rejected. It was further held that the benefits had also been denied to the respondent on the ground that he could not complete his basic training on account of the injuries suffered.

14. The learned Single Judge also found the respondent entitled to the benefit of disability pension in terms of the Central Civil Services (Extraordinary Pension) Rules, 1939 ("1939 Rules" for short). Moreover, it was held that S.O.-04/2011 also dealt with disability pension in terms of the 1939 Rules and the Central Civil Services (Pension) Rules, 1972 ("1972 Rules" for short). Accordingly, upon a finding that the respondent was a member of the Force in terms of the 1955 Rules, the respondent was held entitled to the benefit under the 1939 Rules. Moreover, referring to the procedure for termination of a temporary employee under the 1965 Rules, it was held that the condition

precedent for terminating a temporary employee on the ground of physical unfitness, without notice, was a declaration that he was physically unfit for continuance in service.

15. After discussing the materials available on record, it was held that the Rehabilitation Board had neither opined for invalidation of the respondent nor opined that the respondent was permanently incapacitated for work/service. Accordingly, it was held that the order terminating the respondent from service was not supported by any finding of an authority competent to declare him permanently incapacitated for service, nor had any exercise to that effect been undertaken in the case of the respondent, resulting in violation of the rights of the respondent, not only under the scheme of the 1949 Act and the 1955 Rules, but also under Article 21 of the Constitution of India.

16. The learned Single Judge had held that under the facts and circumstances of the present case, the ratio of the case of *Mukul Saikia (supra)* cannot be made applicable in the present case. The decision and the reasons of the Court have been summarised in paragraph-42 of the impugned judgment and order, which is reproduced below:

“42. Thus, from the discussion made and reasons recorded hereinabove, the following conclusions can be made and directions(s) are issued:-

I. Though the petitioner was a temporary force, he is to be treated as a member of the force in the given facts of the present case. He will be entitled for benefit required to be granted to a temporary employee, who gets invalidated during course of employment.

II. The Departmental Rehabilitation Board failed to exercise its power in terms of SO-4/2011 and rejected the claim on the grounds which are not sustainable under the aforesaid SO-4/2011. Therefore, such decision is struck down.

III. The discharge of the petitioner from service is also not in terms of the Rules 1965 and therefore, same is not sustainable in law.

IV. Accordingly, the matter is relegated to the employer to take a fresh decision in terms of the determination made hereinabove and thereafter, the respondent employer shall pass a speaking order deciding the benefit that can be granted to the petitioner on becoming disabled for the injury sustained during the training.

V. The entire exercise be carried out by the respondent authority within a period of four weeks from the date of the receipt of a certified copy of this order to be furnished by the petitioner.”

17. The learned CGC has reiterated the contention advanced before the learned Single Judge, as referred above, specifically submitting that, as the termination order was not under challenge and there was no prayer to that effect in the writ petition, the ratio laid down by the Supreme Court of India in the case of *Mukul Saikia (supra)* would apply and the respondent would not be entitled to any relief. It has also been reiterated that without taking the oath, the appointment of the respondent did not confer upon him any right to be reinstated in service or to apply S.O.-04/2011.

18. The learned counsel for the respondent has supported the impugned judgment and order.

19. It is not in dispute that the respondent had not specifically challenged the order of termination. However, the respondent had prayed for setting aside the order dated 14.09.2020, by which the authorities had rejected the recommendation of the District Rehabilitation Board dated 30.07.2020 for rehabilitation and he had prayed for reinstatement in service. The condition precedent for being reinstatement in service is that the order of termination from service was impliedly under challenge.

20. It is also not in dispute that the respondent could not complete his basic training after his initial appointment and it is during the training period, he had suffered injuries which caused prolonged treatment. The respondent was

not administered the oath as his training had not been completed.

21. In the present case in hand, the respondent had been appointed to the post of Constable (General Duty) in the CRPF vide appointment letter dated 10.07.2010, issued by the Commandant, 174 Bn. CRPF. Therefore, merely because the respondent was not administered the oath on account of non-completion of his basic training, he cannot be said to have lost the protection otherwise available to him as a member of the CRPF, particularly when he had not been declared physically unfit for continuance in service by the authority competent to do so.

22. Hence, the mere fact that the respondent did not complete his training and was not administered the oath, would not come in the way of this Court in issuing appropriate directions in terms of S.O.-04/2011.

23. Accordingly, this Court does not find any infirmity in the decision of the learned Single Judge that the termination of the respondent from service was not supported by any finding of an authority competent to declare him permanently incapacitated for service.

24. Accordingly, notwithstanding the fact that the respondent had not challenged the termination order, as he had prayed in the writ petition for reinstatement in service, the learned Single Judge committed no illegality or perversity in not applying the ratio of the decision in the case of *Mukul Saikia (supra)* to the case of the respondent. The absence of a specific challenge to the termination order would not come in the way of the learned Single Judge in granting appropriate relief or to set aside the order of termination.

25. In the present case, the learned Single Judge had recorded the submission of the learned CGC that the matter may be relegated to the

employer for determining the entitlement, if any, of the respondent to compensation under the Government Office Memorandum dated 04.08.2017 issued by the Government of India, Ministry of Home Affairs. It is precisely the said prayer of the learned CGC which was allowed in the writ petition by relegating the matter to the employer to take a fresh decision in terms of the findings recorded in the judgment and to pass a speaking order determining the benefit that may be granted to the respondent on account of the disability suffered due to the injuries sustained during training.

26. In view of the said contention recorded in paragraph- 4 (III) of the impugned judgment and order, this Court is of the considered opinion that the impugned judgment and order dated 25.07.2024, passed by the learned Single Judge in W.P.(C) 4606/2020 does not require any interference.

27. Accordingly, the intra-court appeal fails and this writ appeal is dismissed.

28. The relief as granted by the learned Single Judge to the respondent shall be provided to the petitioner and such exercise shall be completed by the respondent authority within an extended period of 6 (six) weeks from the date of service of a certified copy of this order to all the respondents so as to bring the order to the notice of the said authorities.

JUDGE

JUDGE

Comparing Assistant

Private Secretary