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**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WA No. 57 of 2023

Ref:- WP(C) No. 942 of 2016

1. Union of India represented by the Secretary, Ministry of Home Affairs, Government of India, Shastri Bhavan, New Delhi-110001.
2. Director General CISF HQ CGO Complex, Lodhi Road, 13-Block, New Delhi-110003.
3. CO.CISF, Unit Oil Duliajan, Dibrugarh, Assam

.... Appellants

-Versus-

Tensubam Khomei Singh, aged about 44 years, S/o (L) T. Mohan Singh, CISF No.964651076, a resident of Ningomthongjao Kitnapanung, PO Imphal, PS Irilbung, Imphal East District-Manipur-795008

... Respondent/Writ Petitioner

BEFORE

**HON'BLE THE ACTING CHIEF JUSTICE MR. M.V. MURALIDARAN
HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the appellants	::	Mr. S. Samarjeet, SR.PCCG
For the Respondents	::	Mr. Kh. Tarunkumar, Sr. Adv assisted by Kh. S. Nirmala, Adv.
and Judgment & Order	::	12.09.2023

JUDGMENT AND ORDER

(ORAL)

(M.V. Muralidaran, Acting CJ)

Heard Mr.S.Samarjeet, learned Senior Panel Counsel for Central Government for the appellants and Mr.Kh.Tarunkumar, learned senior counsel, assisted by Ms.Nirmala, learned counsel for the respondent.

[2] This writ appeal has been filed against the order of the learned Single Judge dated 14.2.2023 made in W.P.(C) No.942 of 2016. The said writ petition has been filed by the respondent to revoke the dismissal order dated 17.9.2009.

[3] The learned Single Judge, by the order dated 14.2.2023, quashed the order dated 25.9.2009 and directed the appellants to reinstate the respondent in service forthwith with all consequential benefits.

[4] Assailing the order of the learned Single Judge, the learned Senior Panel Counsel for Central Government appearing for the appellants submitted that the learned Single Judge ought not to have quashed the dismissal order dated 25.9.2009, as the respondent has not prayed for relief to quash the order dated 25.9.2009. The learned Single Judge should not grant the relief, which is not prayed for by the respondent. He would submit that the learned Single Judge has not considered certain crucial and key

facts which formed the basis for passing of the dismissal order dated 25.09.2009.

[5] The learned Senior Panel Counsel for Central Government further submitted that the respondent was found to be under the influence of alcohol while on duty and that the learned Single Judge has not considered the report of the officer who was detailed for the preliminary inquiry.

[6] Supporting the order of the learned Single Judge, the learned senior counsel for the respondent submitted that the learned Single Judge, after considering the issue involved in the writ petition, has allowed the writ petition thereby setting aside the order dated 25.09.2009 and directed the appellants to reinstate the respondent forthwith with all consequential benefits. Such a well-considered order cannot be interfered with by this Court. That apart, no valid grounds have been made out by the appellants for interference with the order of the learned Single Judge. Thus, a prayer has been made to dismiss the writ appeal.

[7] We have considered the rival submissions and also perused the materials available on record.

[8] As could be seen from the records, the respondent has filed the writ petition challenging the order of suspension dated 17.9.2009. He has not prayed for quashing of the dismissal order dated 25.09.2009, as also the order dated 30.12.2009 passed by the appellate authority. At this

junction, it would be appropriate to quote the relief sought for by the respondent in the writ petition, which reads thus:

“15. ... From the above facts and circumstances Your Lordship be pleased to pass an order:-

- a) To register it as a writ petition.*
- b) To call for the records from the subordinate courts.*
- c) To revoke the dismissal order dt. 17.09.2009.*
- d) To reinstate the appellant/petitioner with service benefits.*
- e) To pass any order which it deems fit.”*

[9] Though the respondent pleaded in the writ petition that he was dismissed by the third appellant on 25.09.2009, the said order has not been challenged in the writ petition. The order under challenge in the writ petition is dated 17.9.2009. The order dated 17.9.2009 reads thus:

“Whereas, a disciplinary proceedings against CISF No.964651076 Constable/GD T.K.Singh of Field Sector, CISF, Unit OIL Duliajan is contemplated/pending.

02.Now, therefore, the undersigned in exercise of the power conferred by Sub-Rule (1) of Rule 33 of CISF Rules 2001 hereby places the above said enrolled member of the Force under suspension with immediate effect.

03. It is further ordered that during the period that this order shall remain in force, the Headquarters of the above said enrolled member of the Force i.e. CISF No.964651076 Constable/GD T.K.Singh should be Field Sector Headquarters of CISF Unit OIL Duliajan and Constable T.K.Singh shall not leave his Headquarters without obtaining the prior permission of the undersigned.”

[10] The records reveal that after placing the respondent under suspension, a preliminary enquiry was ordered to be conducted on the incident and consequent upon the complaint filed by one M.S.Yadav, Assistant Commandant, a criminal case in FIR No.106 was registered against the respondent under Sections 307, 326 IPC and Section 27 of the Indian Arms Act and the respondent has got bail in respect of the said criminal case. Thereafter, considering the destructive circumstances, the respondent authorities had initiated proceedings under Rule 39(ii) of the CISF Rules, 2001 and upon enquiry and taking into consideration of the materials, including the oral and documentary evidence, awarded penalty of dismissal from service vide order dated 25.9.2009. Aggrieved by the punishment, the respondent had preferred appeal petition on 23.10.2009 to the appellate authority. The appellate authority, by the order dated 30.12.2009, dismissed the said appeal petition of the respondent.

[11] Admittedly, the aforesaid two orders, namely, the order of the disciplinary authority dated 25.9.2009 dismissing the respondent from service and the order of the appellate authority dated 30.12.2009 rejecting the appeal petition of the respondent have not been challenged by the respondent.

[12] At this juncture, the learned Senior Panel Counsel for the Central Government submitted that the writ petition itself is not maintainable as firstly all the incidents took place within the State of Assam and the dismissal order was also issued at Duliajan, Assam and, as such, the

territorial jurisdiction lies only with the Gauhati High Court and secondly the respondent had filed the writ petition only challenging the order of suspension dated 17.9.2009. According to learned Senior Panel Counsel, in CISF Act and Rules, there is a provision for filing revision petition against the order of the appellate authority. However, the respondent without exhausting such remedy has approached this Court. As such, the writ petition is liable to be dismissed.

[13] We have gone through the order of the learned Single Judge. The learned Single Judge ought not to have quashed the dismissal order dated 25.9.2009, as the respondent has not prayed for setting aside the said order in the writ petition, which goes against the settled principle of law. As rightly argued by the learned Senior Panel Counsel for Central Government, the learned Single Judge should not grant relief which is not prayed for by the respondent in the writ petition.

[14] In *Trojan & Co. v. Nagappa Chettiar*, AIR 1953 SC 23, the Hon'ble Supreme Court considered the issue as to whether relief not asked for by a party could be granted and that too without having proper pleadings. In paragraph 22, the Hon'ble Supreme Court held as under:

"22. ... It is well settled that the decision of a case cannot be based on grounds outside the pleadings of the parties and it is the case pleaded that has to be found. Without an amendment of the plaint, the court was not entitled to grant the relief not asked for

and no prayer was ever made to amend the plaint so as to incorporate in it an alternative case.”

(emphasis supplied)

[15] In *Fertilizer Corporation of India Limited v. Sarat Chandra Rath*, (1996) 10 SCC 331, the Hon’ble Supreme Court held:

“23. There is also considerable force in the contention of Shri V.R. Reddy, the learned Additional Solicitor General, appearing for the appellants, that the High Court ought not to have granted reliefs to the respondents which they had not even prayed for inasmuch as relief prayed for in the writ petition was only with regard to the adjustment of the personal pay against the incremental benefits. But as the case had been argued at length on the points decided by the High Court, we need not advert further on this aspect.”

(emphasis supplied)

[16] In *Bharat Amartlal Kothari v. Dosukhan Saadkhan Sindhi*, (2010) 1 SCC 234, the Hon’ble Supreme Court held:

“30. Though the provisions of the Code are not made applicable to the proceedings under Article 226 of the Constitution, the general principles made in the Civil Procedure Code will apply even to writ petitions. It is, therefore, incumbent on the petitioner to claim all reliefs he seeks from the court. Normally, the court will grant only those reliefs specifically prayed for by the petitioner. Though the court has very wide discretion in granting relief, the court, however, cannot, ignoring and keeping aside the norms and principles governing grant of relief, grant a relief not even prayed for by the petitioner.”

(emphasis supplied)

[17] In *Manohar Lal v. Ugrasen*, (2010) 11 SCC 557, the Hon'ble Supreme Court held:

“34. In view of the above, law on the issue can be summarised that the court cannot grant a relief which has not been specifically prayed by the parties. The instant case requires to be examined in the light of the aforesaid certain legal propositions.”

(emphasis supplied)

[18] From the above decisions, it is clear that the High Court, exercising its jurisdiction, ought not to have granted relief to the writ petitioner which he had not even prayed for.

[19] In the instant case, as stated supra, the relief prayed for in the writ petition was only with regard to quashing of the suspension order dated 17.09.2009. Though the case has been argued at length on the points decided by the learned Single Judge, we need not advert further on this aspect.

[20] In view of the above, without going into the merits of the rival contentions, we are of the view that it would be appropriate to remand the matter to the learned Single Judge for consideration by giving liberty to the respondent/writ petitioner to file an application for amendment of the prayer for inclusion of the prayer for challenging the order of the disciplinary authority as well as the order of the appellate authority.

[21] Accordingly, the writ appeal stands disposed of. The matter is remanded back to the learned Single Judge so as to enable the respondent to make necessary application for amendment for inclusion of the prayer challenging the order of the disciplinary authority as well as the appellate authority. There will be no order as to costs.

JUDGE

ACTING CHIEF JUSTICE

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