

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAIED MUSTAQUE

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 26967 of 2011 (S)

PETITIONER(S):

NO.922292314 CONSTABLE SANTHOSHAN P.N
CENTRAL INDUSTRIAL SECURITY FORCE UNIT
COCHIN PORT TRUST, COCHIN-682009.

BY ADVS.SRI.G.SASIDHARAN CHEMPAZHANTHIYIL
SRI.S.VISHNU

RESPONDENT(S):

1. THE COMMANDANT, CISF UNIT,
SECURITY FORCE, COCHIN PORT TRUST, COCHIN-682009.

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

3. THE INSPECTOR GENERAL
CENTRAL INDUSTRIAL SECURITY FORCE
SOUTH SECTOR HEADQUARTERS, CHENNAI PORT TRUST, CAMPUS
NEAR WAR MEMORIAL, CHENNAI-600009.

4. THE DIRECTOR GENERAL, CENTRAL
INDUSTRIAL SECURITY FORCE, NO.13, CGO COMPLEX
LODHI ROAD, NEW DELHI-110003.

R1 BY ADV. SRI.P.PARAMESWARAN NAIR,ASG OF INDIA

R1-R4 BY ADV. SRI.T.SANJAY, CGC

R BY SRI.P.PARAMESWARAN NAIR,ASST.SOLICITOR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

ETITIONER(S) EXHIBITS

EXT.P1 TRUE COPY OF THE NO.V-15014/DISC/MAJ(SPN) 2008/2133 DATED 16-5-2008 ISSUED BY THE 1ST RESPONDENT.

EXT.P2 TRUE COPY OF THE APPEAL DATED 23-10-2008 TO THE 2ND RESPONDENT.

EXT.P3 TRUE COPY OF THE APPELLATE ORDER NO.V-11014/40/2008/L&R/(SZ)1144 DATED 12-5-2009 ISSUED BY THE 2ND RESPONDENT.

EXT.P4 TRUE COPY OF THE REVISION PETITION DATED 6-5-2009 TO THE 3RD RESPONDENT.

EXT.P5 TRUE COPY OF THE ORDER NO.V-15014/L&R/SS/REV/SPN/2009-2062 DATED 29-10-1009 ISSUED BY THE 3RD RESPONDENT.

EXT.P6 TRUE COPY OF THE CORRIGENDUM NO.V-15014/L&R/SS/REV/SPN/2009-2123 DATED 16-12-2009 ISSUED BY THE 3RD RESPONDENT.

EXT.P7 TRUE COPY OF THE ORDER NO.V-15014/L&R/SS/REV/SPN/2009-27 DATED 20-01-2010 ISSUED BY THE 3RD RESPONDENT.

EXT.P8 TRUE COPY OF THE STANDING DISABILITY ASSESSMENT BOARD CERTIFICATE DATED 20-09-2007.

EXT P9 TRUE COPY OF THE COPY OF THE RENTAL AGREEMENT IN MARCH 2010

RESPONDENTS' EXHIBITS :NIL

True Copy/

P A to Judge

A.MUHAMED MUSTAQUE, J.
=====

W.P(C).No.26967 of 2011
=====

Dated this the 10th day of February, 2015

JUDGMENT

Petitioner is a CISF personnel who was awarded the penalty of compulsory retirement from service consequent upon disciplinary proceedings initiated against him. The charge levelled against the petitioner was that he was negligent while using a rifle. Though no inadvertent incident occurred in the matter, taking note of the serious dereliction of duty, he was ordered to be compulsorily retired from the service. Thereafter in a revisional order passed by the Inspector General, taking a lenient view, petitioner was ordered to be reinstated. Accordingly, petitioner was reinstated in service. However, he was imposed with a penalty of reduction of pay to the minimum scale of pay i.e, ₹3200-85-4900/- (ACP Scale-Pre revised) to be fixed in the corresponding revised scale of pay for a period of two years from the date of his joining on reinstatement. It is also directed that petitioner will not earn increments of pay during the period of reduction and that on expiry of this period, the reduction will have the effect of postponing his future increments of pay. By Ext.P7 Inspector General directed that the period of absence from the date of compulsory retirement from service to the date of his

reinstatement in service ie, from 09.10.2008 to 10.11.2009 be treated as dies-non for all purposes and he will not be paid any pay and allowances for the said period. Aggrieved by Ext.P7 order and imposition of penalty on the petitioner, he approached this Court.

2. Learned Counsel submits that imposition of penalty on the petitioner is disproportionate and harsh. In fact petitioner did not commit any offence warranting action against him.

3. The learned counsel for the petitioner also submits that no inadvertent incident occurred in the matter. It is an incident purely accidental, it's a mere human error and therefore, punishment like reduction of pay is disproportionate. Learned counsel also questions the disciplinary proceedings. However, it is submitted that petitioner is prepared to move the Director General 4th respondent against the impugned orders. It is submitted that petitioner confines his challenge to the limited extent of imposition of penalty alone.

4. The learned counsel for the respondent Sri.T.Sanjay opposed the prayer and submitted that authority already shown leniency in the matter to the petitioner.

5. In view of the facts stated above, petitioner is given liberty to approach the 4th respondent regarding proportionality of

the punishment given to him. It is submitted by learned counsel for the petitioner that petitioner is prepared to move the 4th respondent by way of representation regarding imposition of such penalty. If the petitioner makes such representation before the 4th respondent within three weeks from the date of receipt of a copy of this judgment, necessary orders shall be passed thereon by the 4th respondent within a period of two months.

The writ petition is disposed of.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE.