

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.A.Nos.1134 and 1135 of 2014
and
MP.Nos.1 and 1 of 2014

Aravind Kumar ... Appellant in WA.1134/2014
P.Paramasivam ... Appellant in WA.1135/2014

vs.

- 1.The Union of India
rep. by the Secretary,
Ministry of Home Affairs,
New Delhi.
- 2.The Director General,
Central Industrial Security Force,
Block No.13, CGO's Complex,
Lodhi Road,
New Delhi - 110 003.
- 3.The Inspector General
Central Industrial Security Force,
Chennai Port Trust,
Near War Memorial
Chennai - 600 009.
- 4.The Deputy Inspector General,
Central Industrial Security Force,
South Zone, Head Quarters,
Rajaji Bhavan, Besant Nagar,
Chennai - 600 090.
- 5.The Group Commandant
CISF Group Head Quarters,
Hyderabad - 78.
- 6.The Deputy Commandant,
CISF Unit, HPCL (VR & BP)
Vishakaapattinam,
Andhra Pradesh.

... Respondents
in WA.1134/2014

1.The Director General,
Central Industrial Security Force,
Block No.13, CGO's Complex,
Lodhi Road,
New Delhi - 110 003.

2.The Deputy Inspector General,
Central Industrial Security Force,
South Zone, Head Quarters,
Rajaji Bhavan, Besant Nagar,
Chennai - 600 090.

3.The Group Commandant
CISF Group Head Quarters,
Hyderabad - 78.

4.The Deputy Commandant,
CISF Unit,
Salarjung Museum,
Jubuli Post,
Hyderabad.

... Respondents
in WA.1135/2014

Writ Appeals filed under Clause 15 of the Letters Patent against the common order dated 24.02.2014 passed by the learned Single Judge of this Court in W.P.Nos.7496/2012 and 24777/2011 respectively.

Prayer in W.P.No.24777 of 2011: Petition filed under Article 226 of the constitution of India praying to issue a Writ of Certiorarified mandamus, to call for the records relating to the order passed by the 2nd respondent in his order No. V-11015/Appeal-34 (A.KU)/ANU/SZ/2011/6772 dt 5.9.2011 received by the petitioner on 7.9.2011 confirming the order passed by the 3rd respondent dt 24.5.2011 in his final order No. V-15014/CISF/GHH/Maj-PPS/SJM (H)/Adm.IV/II/1654 and quash the same and to direct the respondents to take the petitioner into the strength of CISF as Constable with all monetary benefits.

Prayer in WP.No.7496 of 2012 : Petition filed under Article 226 of the constitution of India praying to issue a Writ of Certiorarified mandamus, to call for the records relating to the order passed by there third respondent in his order No.15014/L & R/SS/Rev/AK/2011-17 dated 10.01.2011 forwarded to the petitioner on 31.01.2012 confirming the order of the 4th respondent in his order No.V-11015/APPEAL-34(AK)/Disc/SZ/2011/6773 dated 05.09.2011 and confirming the order of the 5th respondent in his order No.V-15014/CISF/GHH/Maj-ArvindKr/HPCL(V)/Ad.IV/11/1795 dated 02.06.2011 and quash the same and to direct the

respondents to take the petitioner into the strength of CISF as Constable with all monetary benefits.

For Appellants : Mrs.R.Gouri

For Respondents : Mr.P.Saravanan

COMMON JUDGMENT

(Common Judgment of the Court was made by
HULUVADI G. RAMESH,J.)

The unsuccessful writ petitioners in the respective writ petitions are the appellants in the present writ appeals. Challenging the correctness of the common order passed by a learned Single Judge in WP.Nos.7496/2012 and 24777/2011, the present writ appeals have been filed by the respective writ petitioners.

2.Since the issue involved in both the writ appeals is one and the same, they were taken up for consideration jointly and are being considered and decided by this common judgment.

3.For the sake of convenience, the parties are referred to as per their rank in their respective writ petitions.

4.A few facts, which are necessary for disposal of the present writ appeals, are that the petitioners were appointed as constables in the Central Industrial Security Force (for brevity, "the CISF") and were detailed in I.S. Duty Coy No.409 to assist the local police in maintaining law and order in Telungana Region of Andhra Pradesh. After the evening roll call on 14.01.2011, the petitioners, without any intimation or permission from the competent authority, went out of the company on the pretext of fetching milk. While so, they were held by the local people on the allegation that they were lured with two local girls with ulterior motive and tried to indulge with them in the act of immorality and were handed over to the Station House Officer of Tadwai Police Station. A preliminary enquiry was conducted by the Inspector, I.S.Duty, Coy No.409, in which, the petitioners were found to be guilty and they were placed under suspension with effect from 15.01.2011. Following the same, charges were framed and departmental proceedings were initiated against them, which ended in punishment of removal from service. Challenging the said punishment, the petitioners preferred appeals to the second respondent, which were rejected, by orders dated 05.09.2011. Aggrieved over the same, the petitioner in WP.No.24777 of 2011, without filing any revision, has straightaway approached this Court with the said writ petition, whereas, the petitioner in WP.No.7496 of 2012 filed a

revision petition before the Inspector General of Police, which was also rejected, by an order dated 10.01.2012 and thereafter, he has filed the said writ petition.

5.By the impugned order, the learned Single Judge, considering the overall circumstances of the case and after evaluating the entire records, dismissed the writ petitions and confirmed the orders passed by the respondent authority, imposing the punishment of removal of the petitioners from service. However, it was observed by the learned Single Judge that the punishment imposed on the petitioners, would not amount to disqualification for any employment in the Government. Feeling aggrieved over the same, the petitioners are before this Court with the present writ appeals.

6.Mrs.R.Gouri, learned counsel for the petitioners submitted that the two ladies, whose names have been referred to in the charge memos, have not given any complaint and no F.I.R has been registered by the local police. In such circumstances, in the absence of any incriminating material, the proceedings initiated against the petitioners, on surmises and hearsay evidence, which ended in the orders of removal from service, are arbitrary, illegal and without any basis. Even otherwise, the punishment imposed on the petitioners is too harsh and shockingly disproportionate to the charges proved against them. Placing reliance on the decision of the Supreme Court in Shri Bhagwan Lal Arya v. Commissioner of Police, Delhi and others) [(2004) 4 SCC 560], learned counsel submitted that the petitioners are inclined to work even at the remote place and hence, considering the age and family circumstances of the petitioners, the punishment of removal from service imposed on them, may be modified by any other punishment, except the same.

7.Reiterating the submissions as were made before the learned Single Judge, Mr.P.Saravanan, learned standing counsel for the respondents submitted that the enquiry was conducted in a fair and reasonable manner, that too, following the principles of natural justice and after analysing all the materials, the learned Single Judge passed the impugned order, confirming the orders, imposing punishment on the petitioners, which calls for no interference by this Court. The learned standing counsel further submitted that the petitioners belong to a Uniformed service and they were deputed for internal security duty in Telungana Region, which was a very sensitive area and such irresponsible and indiscipline conduct of the petitioners does not entitle them to be a member of a disciplined force viz., the CISF.

8.We have given our anxious consideration to the rival submissions and perused the materials placed before us.

9.It is not in dispute that during the relevant point of time, the petitioners were working as Constables in the CISF and were detailed in I.S. Duty Coy No.409 to assist the local police in maintaining law and order in Telungana Region of Andhra Pradesh. It is equally not in dispute that no complaint was lodged by the so called victims and no FIR was registered against the petitioners herein.

10.The reading of the enquiry report would reveal that the petitioners have left their designated area, without any written orders and they were involved in the acts of immorality, by luring the local girls, by names, Madhu and Swapna, who were working as casual labourers in the Tadwai Police Station and enticing them. On noticing the same, some local youths informed the same to the local police and the Inspector of Police, Tadwai Police Station, rushed to the spot and brought the petitioners to the police station and informed the CISF authorities, about the incident. Following the same, an enquiry was conducted and disciplinary proceedings were initiated. The explanation offered by the petitioners was that they went to procure milk in the nearby Co-operative Society; while returning back, they interacted with two girls and spoke with them; and at that time, the local youths of that area came there and detained them and informed the matter to the Station House Officer. The Enquiry Officer, based on the oral and documentary evidence adduced before him, has come to the conclusion that the charges framed against the petitioners were found to be proved. Based on the same, the disciplinary authority held that the in-disciplinary activities of the petitioners, being members of an armed force, is unpardonable and they were to be stringently punished for the proven acts of misconduct of indiscipline. Further, the defence taken by the petitioners that those two girls meeting them, who are unknown, at a remote place, that too, after dusk, makes the character of the girls questionable, would not absolve the petitioners from the charges framed against them. In view of the same, the petitioners were imposed with the punishment of removal from service, which was confirmed by the learned Single Judge.

11.We are of the opinion that the 'CISF' is an Armed Force of the Union and the services of the members of the Force are being utilised for providing protection and security to the men and material of the Organization, wherever the Force has been deployed. Besides, the Force is also being deployed for internal security duties as per the directions of the Government of India. When the petitioners are employed in such Force, they should not indulge in such activities, as it is universally accepted that any offence committed contrary to justice, honesty, modesty or good morals, is an offence, which involves moral turpitude and our jurisprudence makes no exception.

12. Though the learned counsel for the petitioners has taken painstaking efforts, at least, to modify the punishment imposed on the petitioners, referring to the decision of the Supreme Court in Shri Bhagwan Lal Arya (cited supra), the ratio laid down in the said case would not be applicable to the facts of the present case, as the delinquent therein was imposed with the punishment of removal from service on the ground of alleged misconduct of absence from duty, whereas, here is the case, wherein, the charges proved against the petitioners implied depravity and wickedness of character and disposition, which would involve moral turpitude.

13. Thus, having regard to the facts and circumstances of the case and upon considering all the available materials, we have no hesitation to hold that the acts committed by the petitioners implied depravity and vileness of character and are such as would involve moral turpitude. Therefore, we do not find any error or infirmity in the order so passed by the learned Single Judge.

14. Accordingly, both the writ appeals stand dismissed. However, the observation made by the respondent authority that the punishment imposed on the petitioners would not amount to disqualification for any employment in the Government, which has been confirmed by the learned Single Judge, holds good. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

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To

1. The Secretary,
The Union of India
Ministry of Home Affairs,
New Delhi.

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Central Industrial Security Force,
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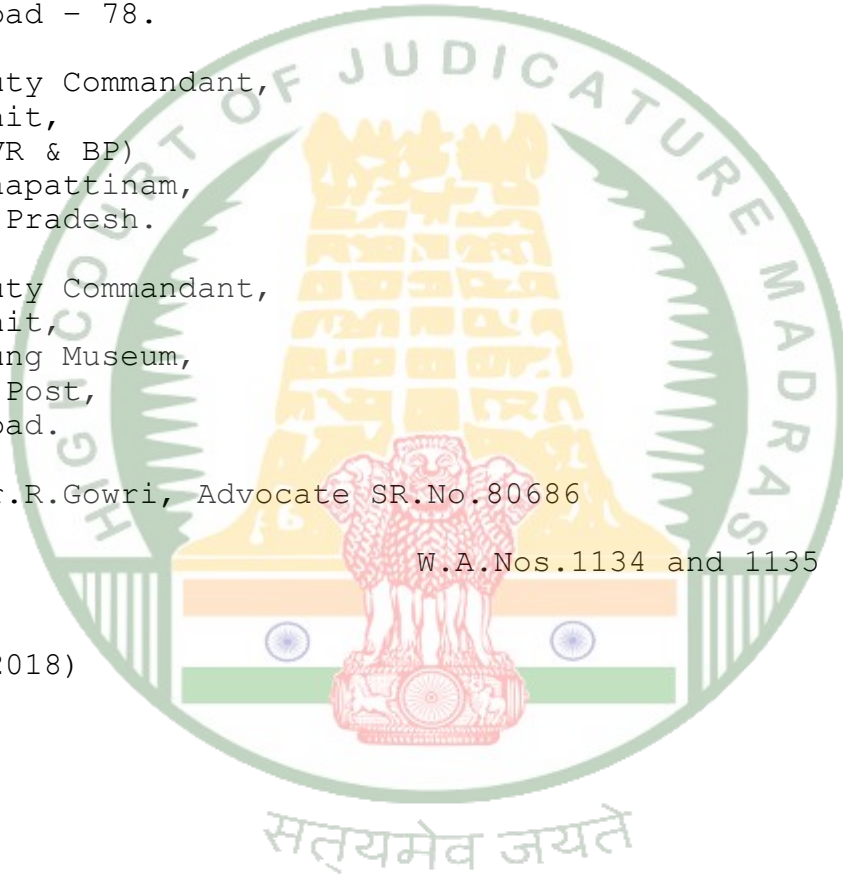
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Jubuli Post,
Hyderabad.

+1cc to Dr.R.Gowri, Advocate SR.No.80686

W.A.Nos.1134 and 1135 of 2014

KAN(CO)
GN(19/03/2018)



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