IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.959 of 2014
and
M.P.Nos.1 and 2 of 2014

Ajaya Kumar ... Petitioner

Vs

1. The Union of India,
   Rep.by its Secretary to Government,
   Ministry of Home Affairs,
   New Delhi.

2. The Director General,
   NDRF AND CD, R.K.Puram,
   Sector -I,
   New Delhi - 110 066.

3. The Director General,
   Central Industrial Security Force,
   CGO Complex, Lodhi Road,
   New Delhi - 110 003.

4. The Deputy Inspector General,
   Disaster Management,
   Central Industrial Security Force,
   CGO Complex, Lodhi Road,
   New Delhi - 110 003.

5. Mr.M.K.Varma
   The Commandant,
   4th Battalion, NDRF,
   Suraksha Campus,
   Arakkonam - 631 152,
   Vellore District.

6. Mr.Balwinder Singh,
   The Deputy Commandant,
   4th Battalion, NDRF,
   Suraksha Campus,
   Arakkonam - 631 152,
   Vellore District. ... Respondents

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Prayer: Writ 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 charge memo issued by the 6th respondent in his Memorandum No.V-15014/04NDRF (A)/DISC/AKB Minor 28/2013-2171, dated 23.12.2013 and quash the same and to direct the 6th respondent to furnish the documents requested by the petitioner in the representation dated 30.12.2013 and conduct enquiry with respect to the alleged incident dated 14.12.2013 by giving opportunity to the petitioner.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.J.Madanagopal Rao,
Senior Central Government
Standing Counsel

ORDER

A charge memo dated 23.12.2013 issued by the sixth respondent is under challenge in this writ petition.

2. The learned counsel appearing for the writ petitioner made a submission that the petitioner has joined as Assistant Sub-Inspector/Clerk in the Central Industrial Security Force on 01.03.1989, through Staff Selection Commission and thereafter, posted as Sub Inspector Executive with effect from 01.03.1990. The writ petitioner, by virtue of his merit and ability was promoted to the post of Inspector Executive on 01.06.2005. The petitioner claims that the he has served 25 years with clean records of service. However, the fifth respondent, in his proceedings dated 14.12.2013, issued a memorandum directing the writ petitioner to submit his explanation in respect of the working lunch with the Deputy Inspector General, South Zone, Group Commandant and the Commandant, which was arranged on 14.12.2013. The writ petitioner submitted his explanation and denied the allegations by stating that he was not responsible for any failure or lack supervision. However, the respondents issued a charge memo by proceedings dated 23.12.2013 and the description of the article of charge is extracted here under:

> "On 14/12/2013, DIG/NDRF SZ HQrs. Chennai, Comdt. CISF Gp.HQrs. Chennai, Comdt 04 Bn.NDRF (A), 2I/C 10 Bn. NDRF and other GO's of this Battalion had working lunch at 04 Bn. NDRF mess. During the lunch, house flies were found sitting on the dining table and food. The pest control light was not switched on. Similarly, new utensils available with QM store but the same were not collected and the food was served in shabby utensils. In spite of clear instructions

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and your presence at the NDRF mess you did not ensure anything and tarnished the image of 04 Bn. NDRF (A).

Thus, the act committed No. 891400028 Inspector/Exe Ajay Kumar B. amounts to gross misconduct, negligence and dereliction of duties being the discipline of the Armed Force. Hence the charge".

3. The learned counsel appearing for the writ petitioner strenuously contended that the nature of the charges framed against the writ petitioner is absolutely unsustainable and the writ petitioner being an Inspector Executive, cannot be held responsible for these kinds of frivolous allegations. This apart, in respect of switching on the pest control light, normally, the class IV employees will perform those duties without fail and some times, by over sight, it would have happened, for which the Inspector Executive cannot be held responsible and this apart, the charge under Discipline and Appeal Rules in this regard is nothing but a mockery. The learned counsel further states that the higher responsibilities attached to the post of Inspector Executive, cannot be degraded by framing such a nature of allegations and it amounts to degrading the official position of the writ petitioner as Inspector Executive. Further, such duties and responsibilities are not attached to the post of Inspector Executive and out of respect, the Inspectors used to perform such duties and even if there is a failure in this regard, framing of the charges will amount to exceeding the powers conferred under the Discipline and Appeal Rules.

4. The learned Senior Central Government Standing Counsel appearing for the respondents opposed the contentions of the writ petitioner stating that the competent disciplinary authority had issued a charge memo against the writ petitioner and there is no irregularity in framing charge against the petitioner. The learned Senior Central Government Standing Counsel appearing for the respondents urged before this Court that the writ petitioner, while working as Reserve Inspector of the Battalion, was informed that on 14.12.2013, Deputy Inspector General, South Zone Head Quarters NDRF Chennai, Group Commandant, CISF Group Head Quarters Chennai, along with the officials of 4Bn NDRF Arakkonam and some other officials of 10th Battalion NDRF, would be taking working lunch at NDRF Mess of 04 Battalion, Arakkonam and he was instructed to ensure proper adequate arrangements by the sixth respondent. But, it was observed that house flies were found sitting on the dining table and food during the lunch. The petitioner failed to take adequate care so that the pest control light was switched on to prevent such an ugly scenario. In spite of new untensils already available with Quartermaster, the same were also not collected and food was served in shabby utensils. In spite of clear

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instructions, petitioner failed to properly supervise the arrangements for the lunch attended by Senior Officers of the Force and thus tarnished the image of 04 Battalion NDRF, Arakkonam. Under these circumstances, the petitioner was directed by the Commandant to explain the reasons for such lapses on his part in memorandum dated 14.12.2013. The writ petitioner confessed on 15.12.2013 that due to throat infection and mild fever, his physical condition was not at its best, as a result of which, he was unable to perform his duties to the best of his ability. He also specifically pleaded therein that the same could not be a just and valid reason for his lapses and went on to assure that he will take care to ensure that such lapses do not occur again.

5.This Court is certainly impressed upon the explanation given by the writ petitioner. The writ petitioner, instead of defending the allegations framed against him in a shabby manner, honestly replied that he was not well on the particular day and he has made an assurance that he will see that in future he will take care of such things carefully. Committing small mistakes by human is natural and honest admission and regret is the best character of a good officer. Certain condonable mistakes has to be considered by the competent officials also. For the small mistakes, which can be condoned by the officials, this Court is of the opinion that the higher officials may show their magnanimity. In such circumstances, this Court is of the opinion that when the writ petitioner has honestly admitted certain lapses during the official lunch and pleaded that he will see that such things will not occur in future, then it is for the officials to show some kind of magnanimity against such kind of allegations. The petitioner has been working in the rank of Inspector Executive and some times, these kinds of things happen in our country and the officials have to show some leniency at some point of time, for these mistakes, by issuing necessary warning to the officials concerned. If a charge memo is framed against the writ petitioner for these allegations, it will create a kind of frustration in the mind of the officials and further, it will lead to some other negative impacts in the minds of the uniformed personnel.

6. This apart, this Court is of the opinion that the writ petitioner being an Inspector Executive, framing of such charges will create a black mark in his service records and further, it will be a reason for stalling his further promotional opportunities. On a perusal of the charge memo impugned in this writ petition, this Court is of the opinion that no doubt, in a uniformed services, discipline and conduct are of utmost important and there cannot be any compromise on the disciplinary aspects. Utmost discipline and devotion to duty are the prime criteria to maintain such uniformed force and any compromise will dilute the very morale of the force itself. However, when

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such minor instances occur, the higher officials have to show some kind of magnanimity and leniency by issuing a warning to the official concerned. Contrarily, they cannot issue any such charges so as to affect their service prospects in future.

7. Under these circumstances, this Court is convinced in respect of the explanation given by the writ petitioner and this Court also expects that the writ petitioner in future will take care in such kind of matters and perform his duties with utmost integrity, honesty and with devotion.

8. With these observations, this Court is inclined to consider the grounds raised in this writ petition. Accordingly, the impugned order issued by the sixth respondent in memorandum No.V-15014/04NDRF(A)/DISC/AKB Minor 28/2013-2171, dated 23.12.2013 is quashed and the writ petition stands allowed. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

1. The Secretary to Government,
   The Union of India,
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2. The Director General,
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   The Deputy Commandant,
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   Suraksha Campus,
   Arakkonam – 631 152,
   Vellore District.

+1cc to Mr.J.Madanagopal Rao, Advocate, S.R.No.77114
+1cc to Mr.A.S.Mujibur Rahman, Advocate, S.R.No.77247

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