

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.02.2018
CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.2040 of 2018
and
WMP.No.2552 of 2018

P.Palanivel

...Petitioner

Vs

1. The Commandant

CISF Unit, Department of Atomic Energy (DAE)
Kalpakkam, Disciplinary Authority
Kancheepuram District,
Tamil Nadu.

2. The Deputy Inspector General,

CISF DAE Head Quarters
Post: ECIL, Hyderabad-62
State:Andhra Pradesh-500062.

3. The Inspector General,

CISF, Western Sector,
Navi Mumbai, Mumbai.

4.Shri D.D.Sagar

.....

Respondents

Writ Petition filed under Article 226 of the Constitution of India, challenging the order of the first respondent dated 21.08.2009 pertaining to framing of the 3 Articles of Charges against the petitioner made vide Charge Memorandum No.V-15014/DAE (K)/Maj.03/PPV/DISC/2009/1444, 1st respondent Memorandum dated 1.6.2010 made in V-15014/DAE (K) /Disc/Maj-03/PPV/2009/2530 culminating from the Enquiry Report prepared by the fourth respondent Enquiry Officer dated 26.5.2010, 1st respondent Final Order resulting in Termination of Service of the Petitioner herein dated 30.06.2010 made in No.V-15014/DAE (K)Maj.03/PPV/Disc/2009/2998, Appeal order of the 2nd respondent dated 28.9.2010 made in Order No.V-15016/ A-32/DAE/DISC/2010/5407, order passed by the 3rd respondent Revisioning Order bearing No.V-15017/SS/L&R/2014/01425 dated 06.06.2014 and quash the same and consequently direct the Respondents to reinstate the petitioner into service as constable in CISF Unit, Kalpakkam, Kancheepuram District, based on the Judgments of the Hon'ble Supreme Court of India and Hon'ble Madras High Court, with effect from 31.03.2010, along with all attendant benefits due to the petitioner as a consequence thereof.

For Petitioner : Mr.B.Jagannath

For Respondents : Mr.Venkataswamy Babu
Senior Panel Counsel for
Government of India.

O R D E R

This Writ Petition is directed against the orders dated 21.08.2009, passed by the first respondent and another dated 30.06.2010 and the order of the second respondent dated 28.09.2010 and the impugned order of the third respondent dated 06.0.2014 and to quash the same and for a direction to the respondents to reinstate the petitioner into service as constable in CISF Unit, Kalpakkam, Kancheepuram District based on the Judgments of the Hon'ble Supreme Court of India and this Court with effect from 31.03.2010.

2. Heard the learned counsel for the petitioner as well as the learned counsel appearing for the respondents.

3. It is seen that the petitioner was appointed as a constable in the Central Industrial Security Force (CISF) initially as a constable in the year 1993 and was posted in the CISF unit at Department of Atomic Energy, Kalpakkam Atomic Plant as an enrolled member of the force. While so, he applied for leave and submitted the leave application for 8 days from 03.07.2009 to 12.07.2009 and he was sanctioned 8 days. While he was to join to rejoin the duty on 15.07.2009, he was affected with sudden illness of jaundice from 13.07.2009 and therefore he approached the medical officer who thoroughly examined his health condition and prescribed medicine and also advised rest for 26 days from 14.07.2009 to 09.08.2009. The same fact was already intimated by the petitioner to the competent authority from time to time through proper and appropriate method of communication for which there is due acknowledgment. Consequent to the above, the concerned Medical Officer, declared him as fit for duty with effect from 10.08.2009 and accordingly he reported to duty on 10.08.2009 (The very same day) but he was not taken on duty the same day by the respondent force. In the meanwhile, the petitioner was served with a show cause notice by the respondent on 21.08.2009 levelling the three charges against the petitioner for which the petitioner sent a reply on 12.09.2009. Pursuant to the Charge Memo Mr.D.D.Sagar was appointed as an enquiry officer on 15.09.2009. After conducting the enquiry, the enquiry officer has submitted a report on 02.12.2009, wherein the charges framed against the petitioner are proved. The respondents, vide order dated 31.12.2009, ordered for De Novo enquiry against the petitioner. The petitioner sent representations dated 07.01.2010 and 08.01.2010 to the respondents, requesting to drop the proceedings. The respondents vide letter 09.01.2010 dropped the De Novo

Proceedings and again on 13.01.2010, accepting the report of the enquiry officer, the first respondent has imposed the punishment of reduction of pay for three years. As against which, the petitioner preferred an appeal before the Appellate authority i.e. the second respondent herein and the second respondent vide order dated 31.03.2010, has remanded the matter back to the first respondent for fresh consideration. Again Mr.DD Sagar was appointed as Enquiry officer who on enquiry submitted a report dated 26.05.2010, holding that the charges were proved against the petitioner. Taking into consideration of the same, the first respondent has passed an order 30.06.2010, imposing the punishment of compulsory retirement. Being aggrieved over the same, the petitioner filed an appeal before the third respondent, who also confirmed the same. Hence, the petitioner filed a revision/review petition before the Inspector General (IG)/CISF. Since, the original authority has imposed punishment of compulsory retirement which was also confirmed by the appellate authority itself, the review petition was also rejected, by an order dated 06.06.2014. Being aggrieved by the same, the petitioner has approached this Court.

4. The sole contention of the petitioner is that since the petitioner was suffering from severe mental depression, stress and other health hazards and unable to withstand the family responsibility, without any source of income and moreover, he is not having sufficient means to approach this Court, he has filed this petition with a delay of three and half years years.

5. From the above stated facts and circumstances, it is an admitted fact that the present petition is filed with a delay of 3 ½ years and therefore the petition is liable to be dismissed on the ground of laches.

6. Besides, it is well settled law that the delay defeats justice and equities. Equity favours a vigilant rather than an indolent litigant and this being the basic tenant of law, the question of entertaining the prayer of the petitioner, that too after a lapse of 3 ½ years from the date of rejection of review petition, does not arise in the matter.

7. In view of the above, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (CS VIII)

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Sub Assistant Registrar

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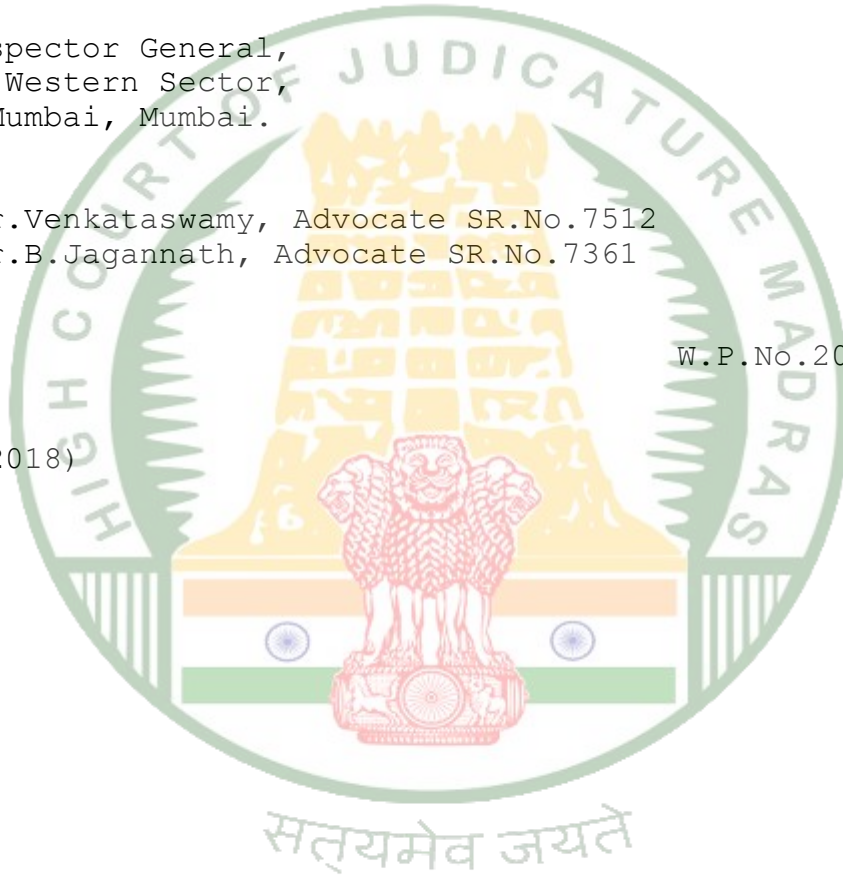
To

1. The Commandant
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Tamil Nadu.
2. The Deputy Inspector General,
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Post: ECIL, Hyderabad-62
State:Andhra Pradesh-500062.
3. The Inspector General,
CISF, Western Sector,
Navi Mumbai, Mumbai.

+1cc to Mr.Venkataswamy, Advocate SR.No.7512
+1cc to Mr.B.Jagannath, Advocate SR.No.7361

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GP(CO)
GN(27/02/2018)



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