

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 6.2.2018

CORAM

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

W.A.No.59 of 2018
and
C.M.P.No.394 of 2018

T.Sivakumar

Appellant

Versus

1. The Director General of Police,
Directorate General CRPF
CGO Complex, Lodhi Road, New Delhi.
2. The Inspector General of Police,
Southern Sector, CRPF
Road No.10C Jubilee Hills Near MLA/MPS Colony,
Gayathri Hills, Hyderabad 500 033.
3. Deputy Inspector General of Police,
Range HQR GC CRPF Avadi,
Chennai 600 065.
4. The Commandant,
42, Bn. CRPF Keshogiri Post,
Old K.V.School Barkas, Hyderabad 500 005.
5. The Medical Superintendent,
Andhra Pradesh Vaidya Vidhana Parishad
District Hospital, Rajahmundry, Andhra Pradesh.

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 12.7.2017 passed in W.P.No.2733 of 2013 on the file of this court.

WP.No.2733/2013:Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus quashing the order of 4th respondent herein made in proceedings P.VIII. 9/2012.42. EC.2 (TSK) dated 23.4.2012 dismissing the petitioner from service and to direct the respondents to reinstate the petitioner as Head Constable into the strength of 42 Bn. CRPF with all monitory benefits and back wages after calling the records and pursuing the same.

For appellant : Ms.R.Gouri
For respondents : Mr.R.Veludas

JUDGMENT

(Judgment of the court was made by RMT.TEEKAA RAMAN, J.)

Challenging the correctness of the order passed by the learned Single Judge, the petitioner has filed this writ appeal.

2. The petitioner, while on duty, in the capacity of Head Constable in the CRPF, carrying ammunition was found under strong influence of alcohol and hence, disciplinary proceedings was initiated against him and at the end of such proceedings, he was found guilty and therefore, he was dismissed from service. On appeal, a lenient view was taken and thereby, his punishment was modified into one of compulsory retirement with permission to withdraw the gratuity and other benefits and the revision preferred by the appellant was rejected and hence, he had filed the writ petition and ultimately, challenging the order passed by the learned Single Judge dismissing the writ petition, he has come up with the present writ appeal.

3. The learned counsel appearing for the appellant would submit that the procedures and instructions regarding escort of arms, ammunitions and explosives while carrying the same from one place to other place were not adhered by the Company Commander and that is the reason for the appellate authority to reduce the punishment of dismissal from service to that of compulsory retirement and only in order to cover up the lapses of the administration, the appellant had been unjustly punished on the basis of false allegation that he was drunk while discharging his duties. He would further contend that the charges framed against him were not proved with an eyewitness, but, construed as proved only on the basis of new paper article and medical report.

4. However, on perusal of the entire materials available on record, it is seen that on appeal, the appellate authority had observed that with regard to the allegation of non-adherence of the instructions to be followed for transporting the ammunition, the Company Commander had been proceeded separately, but, the appellant cannot shirk his responsibility by consuming alcohol and take a ground that the guidelines for carrying the ammunition were not followed strictly. Moreover, it appears that he had been punished twice for having consumed excessive alcohol and once for unauthorised activity of money lending. Therefore, the appellate authority had come to a conclusion that retaining the appellant in service would be against the interest of disciplined force, however, taking a lenient view, modified the punishment of dismissal from service into one of compulsory retirement. On rejection of revision filed by him, the appellant had preferred the writ petition. In this backdrop alone, the writ petition filed by the appellant came to be dismissed.

5. In the facts and circumstances of the case, we have no hesitation to reject the contentions of the appellant. In that view of the matter, the writ appeal is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

ssk.

To:

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District Hospital, Rajahmundry, Andhra Pradesh.

+1cc to Dr.R.Gouri, Advocate Sr.No.9269
+1cc to Mr.R.Veludas, Advocate Sr.no.8671

SS(CO)
sm:19.3.2018

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