

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2019

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.23876 of 2014

and

M.P.No.2 of 2014

G.V.Reddy,
Constable/GD,
No.994480110,
CISF Unit SSP,
Salem.

... Petitioner

Vs.

1.The Group Commandant,
CISF Group Hqrs.,
Chennai.

2.The Deputy Commandant,
CISF Unit SSP,
Salem.

3.The Assistant Commandant,
CISF Unit SSP,
Salem.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the Order of the third respondent made in No.V/15014/CISF/SSP/Disc/Min/2013/4674 dated 19.10.2013, as confirmed by the second respondent in No.V-15014/CISF/SSP/Disc/Min/2013/6024 dated 31.12.2013 and the first respondent No.E-15014/CISF/SSP/Disc/Min/2013/6024 dated 31.12.2013 and the first respondent No.E-15014/CISF/GHC/Revision/GVR/2014/1880 dated 26.05.2014, to quash the same and to pass such other further or other order as this Court may deem fit and proper.

For Petitioner : Mr.S.Udaya Kumar for
M/s.Karan and Uday

For R1 to R3 : Mr.G.Karthikeyan,
Assistant Solicitor General

Assisted by
Mr.A.K.Manoj Kumar (CG)

O R D E R

The petitioner has filed the Writ Petition praying to issue a WRIT OF CERTIORARI, calling for the records relating to the order of the third respondent made in No.V-15014/CISF/SSP/Disc/Min/2013/4674 dated 19.10.2013 as confirmed by the second respondent in No.V-15014/CISF/SSP/Disc/Min/2013/6024 dated 31.12.2013 and the first respondent No.E-15014/CISF/GHC/Revision/GVR/2014/1880 dated 26.05.2014, to quash the same.

2.According to the petitioner, that while the petitioner was working as constable, The respondent framed the charges against the petitioner alleging that the petitioner went to the family quarters No.C-21/1 of Constable M.Amareasan (CIW) and abused him with filthy language and slapped him on his face by his hand and left the place. He was proceeded Departmentally for gross mis-conduct, indiscipline and dereliction of duty by Charge Memorandum dated 04.10.2013.

3.The learned counsel for the petitioner submitted that the petitioner denied the charges and submitted his reply to the charge memorandum on 09.10.2013. The Disciplinary Authority considering his reply, found not satisfactory, imposed the penalty of withholding of one increment for a period of three years, which will not have the effect of postponing his future increments of pay vide Final Order No.4674 dated 19.10.2013. Challenging the aforesaid order, the petitioner has preferred an appeal and the same was dismissed. Thereafter, the petitioner also filed a revision before the first respondent and the appellate authority confirmed the order of the Disciplinary Authority and dismissed the revision petition filed by the petitioner. Hence, the petitioner has filed the present writ petition before this Court by stating the reason that the respondents have violated the principles of natural justice by imposing the aforesaid punishment without affording any opportunity to the petitioner and therefore, the same is liable to be set aside.

4.The learned Assistant Solicitor General appearing for the respondent Nos.1 to 3 would submit that based on the statements and the report, the impugned order was passed and there is no irregularity or illegality in the said order. The said order was passed by imposing minor punishment. Therefore, the contention of the petitioner is liable to be rejected.

5.The petitioner was suspended on 30.09.2013 and further, directed him to submit a detailed report to the Group Commandant, Central Industrial Security Force for approval. On instruction, the said revocation order of suspension is passed based on the request made by the petitioner. The said charge memo is issued under Rule 37 of the Central Industrial Security Force Rules, 2001 for minor punishment.

6.On perusal of the records and based on the submission made by the respondents, no enquiry was conducted by the respondents. The respondents have not stated relevant provisions to proceed the Departmental Action and imposed the punishment to the petitioner. Therefore, on perusal of records, it is found that no enquiry was conducted by the respondent and no opportunity was granted to the petitioner while passing the impugned order.

7.On this ground alone, the impugned order is unsustainable. Therefore, this Court has no hesitation to interfere with the impugned order passed by the respondent and the impugned order is unsustainable and the same is liable to be quashed.

8.In view of the facts and circumstances of the case, the impugned order is quashed. It is open to the respondents to conduct an enquiry afresh, after affording an opportunity to the parties concerned, as per the Rules.

9.Accordingly, this Writ Petition is allowed. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

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To

1.The Group Commandant,
CISF Group Hqrs.,
Chennai.

2.The Deputy Commandant,
CISF Unit SSP,
Salem.

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3.The Assistant Commandant,
CISF Unit SSP,
Salem.

+1 CC to M/s. Karan and Uday, Advocate sr 41775.

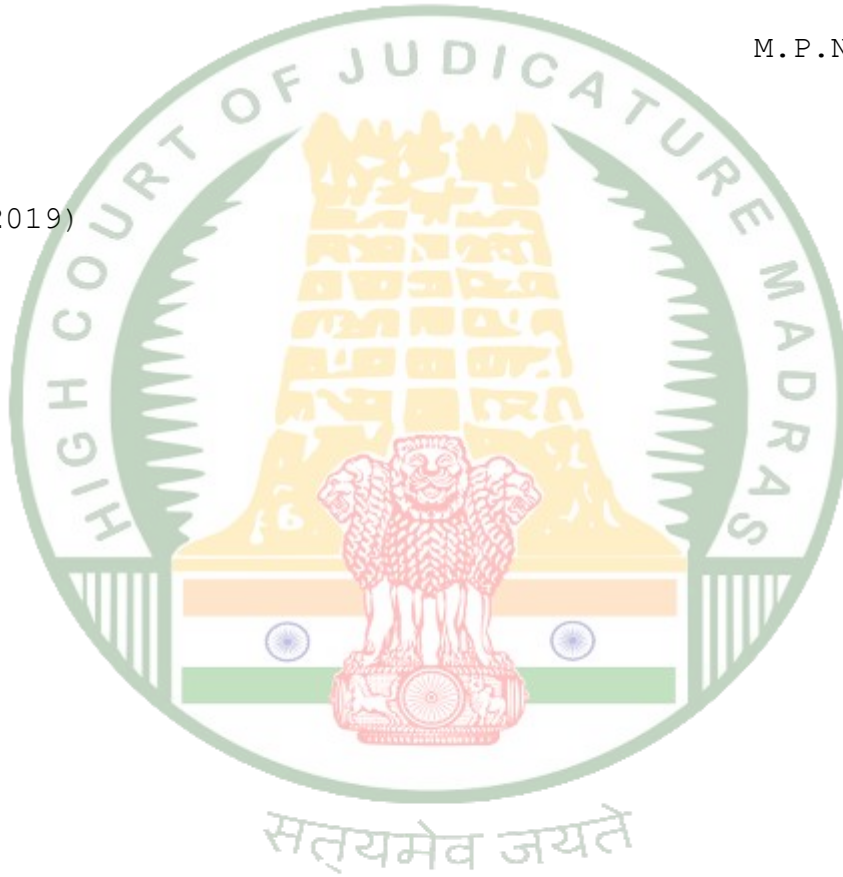
+1 CC to Mr.A.K.Manoj Kumar, Advocate sr 41625.

W.P.No.23876 of 2014

and

M.P.No.2 of 2014

PA (CO)
SP (12/07/2019)



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