



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD).No.13499 of 2010

P.Ganesan

.. Petitioner

Vs.

1.The Commandant

CISF Unit, Cochin Port Trust,  
Willington Island, Cochin.

2.The Deputy Inspector General,

CISF, Southern Sector,  
Rajai Bhavan,  
Besant Nagar, Chennai-90

3.The Inspector General,

CISF, Southern Sector,  
Chennai Port Trust Campus,  
Near War Memorial Gate,  
Chennai-9.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to order passed by the 3<sup>rd</sup> Respondent in his order No.V-15014/L&R/SS/REV/PG/2010-144, dated 25-03-2010 and confirming order passed by 2<sup>nd</sup> Respondent in his order No.V-11014/27/2009/L&R(SZ)-2760, dated 23-11-2009 and confirming the order passed by the 1<sup>st</sup> Respondent in his order No.V-15014/MAJ-10(PG)/ADM/IV/2009/2748, dated 06-07-2009 and quash the same and to direct the Respondents to take the Petitioner in to strength of CISF with all monetary benefits.

|                 |                        |
|-----------------|------------------------|
| For Petitioner  | : Mr.A.S.Mujbur Rahman |
| For Respondents | : Mr.R.Murugappan      |

**ORDER**

This writ petition is filed for issuance of Writ of Certiorarified Mandamus, to call for the records relating to order passed by the 3<sup>rd</sup> Respondent in his order No.V-15014/L&R/SS/REV/PG/2010-144, dated 25-03-2010 and confirming order passed by 2<sup>nd</sup> Respondent in his order No.V-11014/27/2009/L&R(SZ)-2760, dated 23-11-2009 and confirming the order passed by the 1<sup>st</sup> Respondent in his order No.V-15014/MAJ-10(PG)/ADM/IV/2009/2748, dated 06-07-2009 and quash the same and to direct the Respondents to



take the Petitioner in to strength of CISF with all monetary benefits.

2.The petitioner was working as a Constable in CISF in the year 1988. While he was in service in CISF unit at Cochin, the first respondent issued a charge memo under Rule 36 of CISF Rules and the three charges against the petitioner are as follows:

Article of Charge - I

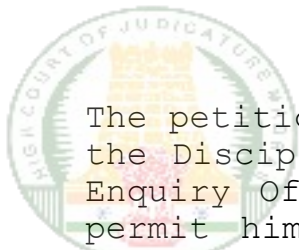
"Gross misconduct and unbecoming a member of the Force in that, CISF No.882294559 Constable P.Ganesan of CISF Unit CPT Cochin stole the ATM-Cum-Debit Card No.6220180869500010200 of State Bank of India, issued to CIST No.751090712 HC/GD Prem Singh and fraudulently withdrew an amount of Rs.1,00,000/- (Rupees One lakhs only) on different dates from 01.05.2008 to 10.05.2008 through ATM from the Savings bank account No.10589103159."

Article of Charge - II

"For the purpose of sanction of leave, CISF No.882294559 Constable P.Ganesan of CISF Unit CPT Cochin passed false information to the Control Room of CISF Unit CPT Cochin through other personnel that his mother was seriously ill and expired on 09.05.2008, whereas the mother of Constable P.Ganesan was already expired. The act of No.882294559 Constable P.Ganesan that he furnished false information for sanction of leave amounts to grave misconduct, indiscipline and unbecoming a member of the Force."

Article of Charge - III

"CISF No.882294559 Constable P.Ganesan of CISF Unit CPT Cochin was sanctioned with 12 days casual leave with other eligible permissions from 09.05.2008 to 25.05.2008 and he was supposed to report for duty on 26.05.2008. The leave sanctioned to him was cancelled on administrative grounds and he was recalled to Unit vide notice dated 15.05.2008. Constable P.Ganesan failed to report back to Unit either immediately or on expiry of the leave on 26.05.2008. Even after sending two more notices directing him to report for duty, he did not obey the order and overstayed the leave upto 16.07.2008 without any permission of the competent authority and reported to unit on 17.07.2008. The act of No.882294559 Constable P.Ganesan, that he did not respond to the re-call letters sent to him and overstayed from leave amounts to grave misconduct, indiscipline, disobedience or orders and unbecoming a member of the force."

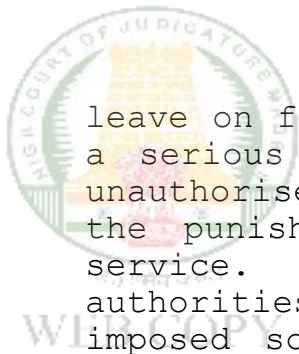


The petitioner gave his explanation denying the charges. Therefore, the Disciplinary authority namely the first respondent appointed an Enquiry Officer. During the enquiry, the petitioner requested to permit him to engage another Constable as his defense assistant. Though the request of the petitioner was denied, he approached the High Court of Kerala and filed a writ petition in W.P.No.4624 of 2009. The said writ petition was dismissed. Aggrieved over the same, the petitioner has filed a writ appeal in W.A.No.499 of 2009. By order, dated 23.03.2009 in W.A.No.499 of 2009, the High Court directed the petitioner to select a person as his defence assistant from a panel of personnel to be produced by the respondents. Accordingly, he selected his defence assistant from the list of personnel so furnished. Thereafter, the enquiry was conducted and based on the findings of the Enquiry officer, the disciplinary authority namely the first respondent awarded the penalty of 'compulsory retirement' from service with full pension and gratuity as admissible under the Pension Rules. Aggrieved by the order of punishment, dated 06.07.2009, the petitioner preferred an appeal petition to the appellate authority namely the second respondent. The appeal was also dismissed and thereafter the petitioner filed a revision petition before the third respondent who rejected the same on 25.03.2010. Challenging the orders of respondents, the above writ petition is filed.

3. One of the prime objection raised by the respondent is that the jurisdiction of this Court to entertain the writ petition. The impugned order of compulsory retirement was passed by the first respondent only after finding the petitioner guilty of charges relating to the irregularities committed by him, while he was in service at Cochin unit. The petitioner however has not even stated as to how the writ petition is maintainable before this Court. However, this writ petition has been filed in the year 2010 and pending for more than 10 years. The charges against the petitioner are specific. The enquiry officer found that the charges are proved based on materials and the findings are unassailable. The explanation offered by the petitioner was considered.

4. Learned counsel appearing for the petitioner mainly argued on the quantum of punishment. No substantial argument was advanced by the counsel regarding the findings of the disciplinary authority as well as the appellate and revisional authorities. In the said circumstances, this Court considered only the quantum of punishment, whether it is disproportionate as it is contended by the petitioner.

5. From the charges, the first charge relates to the withdrawal of sum of Rs.1,00,000/- from co-worker's account. This criminal conduct of petitioner would show that how the petitioner is unfit to serve in the respondent force which is often adopted in sensitive places in the country. The second charge is a serious misconduct wherein the petitioner availed leave on the ground that is



leave on false ground as his mother had expired long back. This is a serious misconduct. Similarly, the third charge is regarding unauthorised absence and insubordination. When charges are proved, the punishment in this case ought to have been dismissal from service. However, very lenient view has been taken by the authorities and punishment of 'compulsory retirement' has been imposed so as to enable the petitioner to enjoy the pensionary benefits.

6.Hence, this Court is unable to find any error or irregularity in the decision of the respondent forces. Hence, this writ petition is dismissed as devoid of merits. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar(CS)

TO

1.The Commandant

CISF Unit, Cochin Port Trust,  
Willington Island, Cochin.

2.The Deputy Inspector General,

CISF, Southern Sector,  
Rajai Bhavan,  
Besant Nagar, Chennai-90

3.The Inspector General,

CISF, Southern Sector,  
Chennai Port Trust Campus,  
Near War Memorial Gate,  
Chennai-9.

+1 CC to M/s.R. MURUGAPPAN, Advocate ( SR-97501[F]  
dated 12/11/2019 )

+1 CC to M/s.A.S. MUJIBUR RAHMAN, Advocate ( SR-97715[F]  
dated 12/11/2019 )

W.P. (MD).No.13499 of 2010.

11.11.2019

SMA/13/12/19/4P/6C