



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :**12.11.2019**
CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1205 of 2019
in
WP (MD)No.13940 of 2010
and
C.M.P. (MD)No.10406 of 2019

P.Victor ... Appellant/Writ Petitioner

Vs.

1.The Commandant,
CISF Unit, TPT,
Tuticorin - 628 004.

2.The Deputy Inspector General,
CISF, South Zone Head Quarters,
Rajaji Bhavan,
Besant Nagar,
Chennai - 600 090.

... Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P(MD) No.13940 of 2010 dated 28.03.2019.

Prayer in WP(MD) . 13940/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS or any other appropriate writ, order of Direction to call for the records relating to the order passed by the 2nd respondent dated 30.06.2010 in his order No.V-11014/11/ANU/PV/2010/3822 confirming the final order passed by the 1st respondent dated 04.12.2009 in his final order No.V-15014/CISF/TPT/Disc/Maj07/PV/2009-5246 and quash the same and direct the respondents to pay all the monetary benefits to the petitioner.

For Appellant : Mr.A.S.Mujibur Rahman

For Respondents : Mr.R.Nanda Kumar
Senior Central Government Standing Counsel



JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.A.S.Mujibur Rahman, learned counsel appearing for the appellant and Mr.R.Nanda Kumar, learned Senior Central Government Standing Counsel appearing on behalf of the respondents.

2. This writ appeal filed by the appellant/writ petitioner is directed against the order passed by the first respondent dated 04.12.2009 imposing a punishment of reduction of pay to minimum pay for a period of three years with a further direction that the appellant will not earn increments of pay during the said period and on expiry of such period, the reduction will have the effect of postponing his future increments of pay.

3. Aggrieved by the said order, the appellant filed statutory appeal before the second respondent, the Deputy Inspector General, CISF, South Zone Head Quarters, Chennai. The said appeal was dismissed by an order dated 30.06.2010. Though the appellant had an effective alternate remedy of filing a revision petition in terms of Rule 54 of the CISF Rules, the appellant chose to file a writ petition.

4. The learned Single Judge after elaborately considering the submissions and noting down the arguments advanced by the learned standing counsel, dismissed the writ petition. One of the grounds which waved in the mind of the Writ Court to dismiss the writ petition was that the appellant/writ petitioner did not exhaust the statutory revisional remedy. Though a revisional remedy may not be wide as that of appeal remedy, the appellant being a member of the Paramilitary Force, is bound to avail the statutory requirements and the revisional authority is well within the jurisdiction to exercise his discretion, if it is found by the revisional authority that the punishment imposed is excessive for the proven charge.

5. The learned counsel appearing for the appellant submits that the order of punishment is of the year 2009 and at this later point of time, the appellant should not be asked to avail the revisional remedy.

6. Admittedly, the appellant is still in service and the writ petition was pending since then before the learned Single Bench. There is no error in the order passed by the learned Writ Court. If according to the appellant, the punishment is excessive, then he has to approach the revisional authority to convince him to interfere in the matter. Even if we are convinced that the punishment is excessive, normally we do not exercise our jurisdiction. But, the proper course would be to send back the matter to the authority concerned to take an informed decision. Thus, we are of the clear



view that the appellant has to exhaust the revisional remedy available to him.

7. Accordingly, while confirming the order of the learned Single Bench, we grant liberty to the appellant to file a revision in terms of Rule 54 of the CISF Rules and if such revision is filed by the appellant within 30 days from the date of receipt of a copy of this judgment, the revisional authority shall entertain the revision petition without reference to limitation. Since original order of punishment and the order passed in the appeal filed by the appellant/writ petitioner have been filed in the writ petition, the appellant is directed to enclose photostat copies of those orders while filing a revision petition.

In the result, the writ appeal fails and is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

pm

To

1.The Commandant,
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Tuticorin - 628 004.

2.The Deputy Inspector General,
CISF, South Zone Head Quarters,
Rajaji Bhavan,
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+1 CC to Mr.M.MD. IBRAHIM, Advocate (SR-97716[F] dated 12/11/2019)
+1 CC to Mr.R.NANDAKUMAR, Advocate (SR-97787[F] dated 14/11/2019)

JUDGMENT MADE IN
W.A. (MD)No.1205 of 2019
12.11.2019

_MK (26.11.2019) 3P 5C