

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.12.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.19151 of 2013

Ex-Constable Shyam Singh

.. Petitioner

Vs..

1.The Union of India,
Through the Secretary,
Ministry of Home Affairs Government of India,
New Delhi.

2.The Director General
Central Industrial Security Force,
C.G.O. Complex,
Lochi Road, New Delhi.

3.The Deputy Inspector General,
Central Industrial Security Force,
Head Quarters South Sector,
Chennai.

4.The Senior Commandant,
Central Industrial Security Force,
Chennai Port Trust, Chennai.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the third respondent in his appellate order dated 26.03.2013 in his Order No.V-11014/07/Disc/T.S/2013/2156 the confirming the order passed by the fourth respondent in his original Order No.V-15014/Dis/Maj-SS-01/2012-5323 dated 26.11.2012, quash the same and to direct the respondent to take the petitioner into the strength of CISF as Constable with all monetary benefits.

For Petitioner : Mr. N. Balamurali Krishnan

For Respondents : M/S. Venkataswamy Babu, SPC.,

ORDER

This writ petition has been filed to call for the records relating to the order passed by the third respondent in the appellate order dated 26.03.2013 in his Order No.V-11014/07/Disc/T.S/2013/2156 the confirming the order passed by the fourth respondent in his original Order No.V-15014/Dis/Maj-SS-01/2012-5323 dated 26.11.2012, quash the same and to direct the respondent to take the petitioner into the strength of CISF as Constable with all monetary benefits.

2. The case of the petitioner is that he was appointed in the post of Constable in Central Industrial Security Force, in short "CISF" by the fourth respondent on 23.06.2001. While he was in service, the suspension order was passed on 19.06.2012 against the petitioner by the Senior Commandant, CISF-fourth respondent, on the allegation, that the petitioner misbehaved with the other Superior Officers and after conducting enquiry, the enquiry officer submitted departmental enquiry report on 20.10.2012 to the Disciplinary Authority. Based on the criminality, Disciplinary Authority imposed a punishment of dismissal from service on 26.11.2012. Aggrieved by the said order of punishment, the petitioner herein filed an appeal before the Appellate Authority namely third respondent. The third respondent without considering the grounds raised in appeal mechanically rejected the appeal. Challenging the same, the present writ petition is filed.

3. Mr. N. Balamurali, the learned counsel appearing for the petitioner submitted that in the disciplinary proceedings, opportunity was given to the petitioner. However, for minor discrepancy, a major punishment was imposed against the petitioner which is an unsustainable one. It is a case of insubordination, which is negligible. Even the original authority can without imposing the major punishment, could have imposed minor punishment. However, in the present case, the major punishment was imposed which is unsustainable.

4. Though the learned counsel appearing for the respondents vehemently argued for sustaining the impugned order as well as Appellate Authority's order, however, on perusal of the provisions, there is a efficacious alternative remedy available before the first respondent and without availing the said remedy before Revisional Authority, filed a writ petition is unsustainable one and the petitioner without availing the statutory remedy filed a writ petition, which is not maintainable. I am not inclined to reject the Appellate Authority's order. However, liberty is granted to the petitioner to file appropriate revision before the first respondent, within a period of four weeks from the date of

receipt of copy of this order. Thereafter, the Revisional Authority may pass appropriate order within a period of 24 weeks.

5. With the above direction, this writ petition is disposed of. No costs.

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

AT

To

1.The Union of India,
Through the Secretary,
Ministry of Home Affairs Government of India,
New Delhi.

2.The Director General
Central Industrial Security Force,
C.G.O. Complex,
Lochi Road, New Delhi.

3.The Deputy Inspector General,
Central Industrial Security Force,
Head Quarters South Sector,
Chennai.

4.The Senior Commandant,
Central Industrial Security Force,
Port Trust, Chennai.

+1CC to Mr. VENKATASAMY BABU, Advocate SR.NO.38835

+1CC to Mr.K. SUBRAMANIAN, Advocate SR.NO.38501

W.P.No.19151 of 2013

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