

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No.2535 of 2015 and
W.M.P.No.5492 of 2020

B. Jagadeswar Reddy

..Petitioner

Vs

- 1.The Union of India,
represented by its Secretary to Government,
Ministry of Home Affairs,
New Delhi.
- 2.The Director General,
Central Industrial Security Force,
CGO Complex, Lodhi Road,
New Delhi -110 003.
- 3.The Inspector General,
Central Industrial Security Force,
South Sector, Head Quarters,
New War Memorial,
Chennai - 600 009.
- 4.The Deputy Inspector General,
Central Industrial Security Force,
South Zone, Head Quarters,
Rajaji Bhavan, Besant Nagar,
Chennai - 600 009.
- 5.The Deputy Commandant,
Central Industrial Security Force,
NMPT-Mangalore.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call the records relating to the order passed by the fifth respondent dated 20.11.2014 in his letter No.15014/CISF/NMPT/Disc/2014/2123 returning the papers relating to the revision submitted to the third respondent insofar as item No.3 is concerned and quash the same, consequently, to direct the third respondent to entertain the revision submitted by the petitioner on 19.11.2014.

For Petitioner : Mr.R. Thiyagarajan
For Respondents : Mr.J.Madanagopal Rao, SCGSC

ORDER

This writ petition has been filed by the petitioner challenging the impugned order passed by the fifth respondent/Deputy Commandant dated 20.11.2014 in his letter No.15014/CISF/NMPT/Disc/2014/2123, returning the papers relating to the revision submitted to the third respondent insofar as item No.3 is concerned and quash the same, consequently, to direct the third respondent to entertain the revision submitted by the petitioner on 19.11.2014.

2. According to the writ petitioner, the fifth respondent had issued the Charge Memorandum under Rule-36 of CISF Rules - 2001 vide letter dated 24.02.2014. While, he was working in CISF Unit NMPT-Mangalore, on 10.02.2014, during the surprise inspection carried out by the Vigilance Team of CISF, SZ, HQrs, Chennai, headed by Inspector, an unaccounted amount of Rs.230/- (Rupees Two Hundred Thirty Only) in various denominations was seized by the Vigilance Team and the said sum gained by the petitioner tantamount to gross misconduct, violation of lawful directions, dereliction of duties, indiscipline and unbecoming of a member of a disciplined Force like CISF. Denying the said charge, on 05.03.2014, a written statement of defence was filed. As per the direction of the memorandum, the petitioner submitted the written statement of defence against the article of charge and denied the allegations. As the reply was not satisfactory, Enquiry Officer was appointed to enquire into the article of charge. Thereafter, the petitioner attended the preliminary hearing and appeared before the Enquiry Officer for enquiry and also PWs, were attended enquiry and deposed their statements and the enquiry authority allowed the petitioner's cross examination of the PWs.

3. Aggrieved by the communication of the fifth respondent returning the revision submitted, although appeal has to be preferred, but, due to family circumstances, appeal was not filed before the fourth respondent within the stipulated time. Therefore, the revision was filed before the third respondent on 19.11.2014 as per the GOI, P&T letter No.6/13/1972-Disc-I, dated 12.01.1973. Thereafter, the third respondent has returned the revision with the endorsement that the appeal was not filed within the stipulated time and the same was communicated by the fifth respondent on 20.12.2014. After the completion of the disciplinary proceedings, the disciplinary authority awarded the punishment of 'reduction of pay of minimum stage of 7,510/- in the pay band-I with Grade Pay Rs.2,400/- for a period of five years with a further direction that during the period of

reduction, he will not earn any increment on expiry of this period. The reduction will have the effect of postponing his future increments of pay' in respect of proceedings initiated under rule 36 of CISF Rules 2001. Due to family problem, the petitioner did not prefer any appeal against the final order passed by the fifth respondent within the stipulated time.

4. Under the foregoing statement of facts and contention stated in the defence representation, now the petitioner prefers this revision petition to the Revision Authority without submitting an appeal and as per GOI, P&T letter No.6/13/72-Disc.I, dated the 12th January, 1973 on the subject head of 'Submission of revision petition to the revision authority without submission of an appeal'. Hence, the petitioner has come forward with the present writ petition before this Court.

5. The learned counsel for the petitioner further submitted that the disciplinary authority, in his final order, has not passed speaking order against the all points raised by the petitioner in his reply of enquiry report. Thereby rendering the impugned order of the final order a totally non-speaking one and against the principle. The petitioner is relying on the following judgment in Ram Chander Vs. Union of India, ATR 1986 (2) P.252, D.Babu Vs. Commandant, ATJ 2006 (3) P.208, Mahatam Vs. Union of India, ATJ 2005 (3) P.232. The Disciplinary Authority is supposed to pass a speaking and reasoned order, after dealing with all the issues, which have been raised by the appellant. Each issue has to be considered and decided by the Disciplinary Authority. A cryptic order passed by the Disciplinary Authority is liable to be quashed.

6. The learned counsel for the petitioner has fairly submitted before this Court that the writ petitioner, without exhausting the remedy of preferring an appeal before the first respondent, has straight away challenged the said order dated 20.11.2014 in his letter No.15014/CISF/NMPT/Disc/2014/2123 passed by the fifth respondent. Therefore, he seeks liberty to prefer an appeal before the fourth respondent.

7. The learned SCGSC appearing for the respondents submitted that without exhausting the alternative remedy, the writ petitioner has approached this Court challenging the aforesaid order and he ought to have preferred an appeal before the authority concerned.

8. In view of the submissions made by the learned counsel on either side, this Court directs the petitioner to prefer an appeal before the authority concerned, within a period of four weeks from the date of receipt of a copy of this order. On such appeal being preferred within the aforesaid period, the fourth

respondent, without considering the delay in preferring such appeal, as the petitioner was filing revision and writ petition before this Court, shall consider the appeal submitted by the petitioner and pass appropriate orders on merits and in accordance with law, as expeditiously as possible, at any rate, within a period of eight weeks from the date of filing of such appeal by the petitioner.

9. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

msm

To

- 1.The Secretary to Government,
Union of India, Ministry of Home Affairs, New Delhi.
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CGO Complex, Lodhi Road, New Delhi - 110 003.
 - 3.The Inspector General,
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South Zone, Head Quarters, Rajaji Bhavan, Besant Nagar,
Chennai - 600 009.
 - 5.The Deputy Commandant,
Central Industrial Security Force, NMPT-Mangalore.
- +1cc to Mr.Thiyagarajan, Advocate, sr no.17464
+1cc to Mr,Madanagopala Rao, Advocate, sr no.16531

W.P.No.2535 of 2015

MG (CO)

RMP (30/09/2020)