



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.6851 of 2011

S.Balakrishnan

... Petitioner

vs.

1.Union of India

Represented by its Secretary to Government
Department of Home Affairs, New Delhi

2.The Director General

CISF Head Quarters No.13, C.G.O.Complex
Lodhi Road, New Delhi 110 003

3.The Inspector General

CISF DAE Head Quarters Western Sector
CISF Campus Sector 35 Taloja
Kharghar Navi Mumbai 410 210

4.The Deputy Inspector General

CISF DAE Head Quarters
Post: ECIL Hyderabad - 62
State: Andhra Pradesh 500 062

5.The Commandant

CISF Unit DAE Kalpakkam
DAE Township Kalpakkam
District:Kancheepuram
Tamil Nadu 603 102

...Respondents

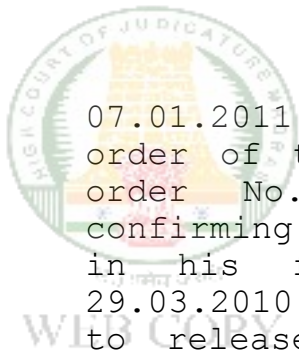
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus to call for the record relating to the order passed by the third respondent dated 07.01.2011 in his order No.V-15012/WS/L&R/10-161 confirming the order of the fourth respondent dated 18.08.2010 in his appellate order No.V-15016/A-29/DAE/Disc/2010-4544, dated 18.08.2010 and confirming the order passed by the fifth respondent dated 29.03.2010 in his final order No.V-15014/CISF/NFC/MAJ-08/2009-1455 dated 29.03.2010 and to quash the same and to direct the respondents and to release the increments reduced by the final order of the disciplinary authority.

For Petitioner : Mr.K.Vadivelu
For Respondents : Mr.C.Nandagopal

O R D E R

The above Writ petition has been filed to call for the record relating to the order passed by the third respondent dated

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07.01.2011 in his order No.V-15012/WS/L&R/10-161 confirming the order of the fourth respondent dated 18.08.2010 in his appellate order No.V-15016/A-29/DAE/Disc/2010-4544, dated 18.08.2010 and confirming the order passed by the fifth respondent dated 29.03.2010 in his final order No.V-15014/CISF/NFC/MAJ-08/2009-1455 dated 29.03.2010 and to quash the same and to direct the respondents and to release the increments reduced by the final order of the disciplinary authority.

2.The case of the petitioner is that he has joined as a Constable in CISF (Central Industrial Security Force) on 05.05.1997. While, he was serving at CISF Unit, ZC/NFC Pazhayakayal under the fifth respondent Unit, a charge memo under Rule 36 of CISF Rules was issued. The allegation against the petitioner is that on 23.09.2009 at about 11.40 hours, impersonating himself as a labour of ZC/NFC, Pazhayakayal made false allegations of corruption and illegal gratification against his Senior Inspector S.S.Verma of CISF Unit, ZC/NFC, Pazhayakayal to the Deputy Inspector General, CISF DAE through his personal cell phone number 9488887918 and thereby exhibited an act of grave indiscipline and gross misconduct.

3.According to the petitioner, he has filed a reply to the fifth respondent and stating that he has not made false allegation of corruption and illegal gratification against the Senior Inspector S.S.Verma of CISF Unit through his phone number 9488887918 as alleged in the article of charge. The learned counsel for the petitioner would submit that the enquiry was conducted in a biased manner without furnishing the documents in Annexure -III and passed the final order on 29.03.2010. Aggrieved over the order passed by the fifth respondent, the petitioner preferred an appeal before the fourth respondent. The fourth respondent confirmed the order of the fifth respondent, thereafter, the petitioner preferred a revision before the third respondent. After hearing the case, the third respondent has also confirmed the order of the respondents 4 and 5. Against which, the petitioner is before this Court.

4.The learned counsel for the respondents has filed a counter affidavit and stated that it is a matter of proven fact that on 23.09.2009 at about 11.40 hours the petitioner impersonating as labour of ZC/NFC Pazhayakayal and he made false allegation of corruption and illegal gratification against his senior Inspector S.S.Verma to the Deputy Inspector General, CISF, Hyderabad through his personal cell phone No.9488887918. The fact of making telephone call and circumstantial evidence clearly established the guilt of the petitioner. Hence, he prayed for dismissal of this Writ petition.

5.Heard the learned counsel appearing for the petitioner as well as the respondents.

6.Perusal of record shows that P.W.1, the fifth respondent deposed in his statement that on 23.09.2009, the Deputy Inspector



General had received a call on his mobile from a contractor labour from CISF Unit informing him that the Inspector /Exe.S.S.Varma who was on temporary duty was collecting money from the Contractors. On verification, it was found that the petitioner has called from his mobile and he had impersonated himself as a labour contractor. The disciplinary authority after trying to contact the above mobile number through his P & T line, it was found to be switched off. On verification, it was found that the mobile number belonged to the petitioner. The disciplinary authority finding that the statement of P.W.1 date and time of receipt of complaint by D.I.G corroborated with P.W.2 wherein an outgoing call has been made from the mobile No.9488887918 to 09440816985 and further P.W.2 confirms that the name of the addressee of mobile number 09440816985 is the charged official, which has been proved in the enquiry. Therefore, the charges has been framed as the misconduct of the petitioner is very serious in nature and highly indisciplined act. The authority finding that the allegation itself is wrong against the person whom the complaint has been made by the petitioner and hence, ordered the punishment of "reduction of pay by two stages from Rs.7910/-+Rs.2000/-(grade pay) to Rs.7340+ Rs.2000/- (grade pay in the pay band of Rs.5200-20200+2000 (grade pay) for a period of three years with effect from the date of receipt of the order and further directed that he will not earn increments of pay during the period of reduction and that on expiry of this period. The reduction will have the effect of postponing his future increment of pay " where I do not find any infirmity.

7.In view of the above, this Court does not find any valid reason to interfere with the order passed by the respondents and hence, this petition is liable to be dismissed. Accordingly, this Writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

msa

+1 CC to Mr.A.S.MUJIBURRAHMAN, Advocate (SR-3574[F] dated 29/01/2020)

+1 CC to Mr.CNANDAGOPAL, Advocate (SR-3558[F] dated 29/01/2020)

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VB (03.03.2020) 3P 3C