



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.08.2020**
CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.9396 of 2020

and

W.M.P(MD) Nos.8534 and 8535 of 2020

John Joseph

... Petitioner

-Vs-

1.The Commandant,
Office of the Senior Commandant,
Central Industrial Security Force,
CISF 4th RB Sivagangai.

2.Amrendra Kumar
Enquiry Officer,
921220019 Insp/Exe,
CISF 4th RB Sivagangai.

3.Anandpal Singh Shishodia,
Presiding Officer,
No.180400731 SI/Exe,
CISF 4th RB Sivagangai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, by calling for the records pertaining to impugned order No.V-15014/CISF/4thRB(S)/MAJ-36/DISC/JJ/2020/838 dated 06.05.2020 passed by the first respondent and quash the same as illegal and ultra virus to the constitution.

For Petitioner : Mr.P.Krishnasamy

ORDER

Prayer sought for herein is for a Writ of Certiorari, by calling for the records pertaining to the impugned order No.V-15014/CISF/4th RB(S)/MAJ-36/DISC/JJ/2020/838 dated 06.05.2020 passed by the first respondent and quash the same.

2.The petitioner has been serving as a Head Constable/driver in CISF at Sivagangai.

3.While so, on 31.01.2020 around 22.10 hours, after taking dinner in the mess, there had been alleged incident, in which, the petitioner allegedly misbehaved or abused with another Constable and



when the issue was brought before Higher Authority, there, it was found that, the petitioner seems to have consumed alcohol and therefore, he had been referred to Government Hospital at Karaikudi, where it was found that, under the consumption of alcohol, the petitioner had behaved and based on which, a charge memo has been issued against the petitioner on 20.04.2020. On receipt of the charge memo, the petitioner has given a detailed representation on 29.04.2020 denying the charges, however having not accepted the said explanation, the respondents appointed, by order dated 06.05.2020, an Enquiry Officer to conduct enquiry and on the same day, a Presenting Officer has also been appointed. Challenging the appointment of Enquiry Officer, the present writ petition has been filed.

4.The learned counsel appearing for the petitioner would submit that, the petitioner on the day of incident has never consumed alcohol and he has taken only the Ayirvethic medicine. He had taken thrice Ayirvethic medicine on that day, that is why, there had been a smell from him and without having been subjected the petitioner for alcohol analysis in that Hospital, merely based on the smell came out from his mouth, the Doctor seems to have given a certificate, based on which charge has been framed.

5.Whether that could be the reason for challenging the order of appointment of Enquiry Officer, the learned counsel would submit that, before the Enquiry Officer the said defence had been taken and the enquiry was over.

6.Having subjected himself before the Enquiry Officer and the enquiry also, according to the learned counsel for the petitioner, is already over, the challenge now made against the appointment of Enquiry Officer cannot be accepted.

7.Further, if at all, the petitioner has got any valid defence against the charge framed against him, he can very well place the same before the Enquiry Officer and it is for the department to prove that case and the petitioner has to prove his innocence in the departmental proceedings, which according to the learned counsel for the petitioner is either underway or completed.

8.Be that as it may, this Court, after hearing the learned counsel for the petitioner, finds absolutely no reason or ground sustainable or acceptable to challenge the impugned order appointing the Enquiry Officer.

9.In view of the above discussions, this Court is not inclined to accept the prayer sought for herein to have a successful challenge against the impugned order of appointment of Enquiry Officer, therefore, this Court has no hesitation to hold that the writ petition fails, accordingly, it deserves to be dismissed. In



the result, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

WEB COPY

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmk

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

+1 CC to M/s.V. MALAIYENDRAN, Advocate (SR-14385[F]
dated 19/08/2020)

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17.08.2020

SCR(CO)

AP(23/09/2020) 3P 2C