

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3227 of 2021

G.V.Reddy

... Petitioner

Vs.

1. The Deputy Inspector General,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation India Limited, (NLCIL),
Cuddalore-607 802.
 2. The Senior Commandant,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation India Limited, (NLCIL),
Cuddalore-607 802.
 3. The Assistant Commandant/G Sector,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation India Limited, (NLCIL),
Cuddalore-607 802.
 4. The Group Commandant,
Central Industrial Security Force Unit,
Group Head Quarters,
Chennai - 600 090.
 5. The Deputy Commandant,
Central Industrial Security Force Unit,
Salem Steel Plant (SSP),
Salem - 636 013.
 6. The Assistant Commandant,
Central Industrial Security Force Unit,
Salem Steel Plant (SSP),
Salem - 636 013.
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent dated 15.01.2021 in his order No.V-15014/NLC/Disc/Revision-37/GVR/2020/336 confirming the order of the second respondent dated 12/14.09.2020 in his order No.V-15014/NLC/Disc/Appeal-37/GVR/2020/6281 confirming the order

of third respondent dated 03.07.2020 in his order No.V-15014/CISF/NLC/Disc/Min/GVR/2020/763 and quash the same and direct the respondents to pay all monetary and consequential service benefits.

For Petitioner : Mr.R.Thiyagarajan

For Respondents : M/s.Sowmya
Mr.M.Sathyan,
ACGSC

O R D E R

This Writ Petition is filed, seeking to quash the impugned order passed by the 1st respondent, dated 15.01.2021 in his order No.V-15014/NLC/Disc/ Revision-37/GVR/2020/336, confirming the order of the second respondent dated 12/14.09.2020 in his order No.V-15014/NLC/Disc/Appeal-37/GVR/2020/6281 confirming the order of third respondent dated 03.07.2020 in his order No.V-15014/CISF/NLC/Disc/Min/GVR/2020/763 and consequential direction to the respondents to pay all monetary and consequential service benefits.

2. The case of the petitioner is that while the petitioner was working in the rank of Constable/GD under the respondents 4 to 6, the 6th respondent issued a Charge memo and after enquiry, imposed a punishment of withholding of one increment for a period of three years without cumulative effect. Aggrieved against the said order, the petitioner preferred an appeal followed by a revision, which were rejected by the respondents concerned. Aggrieved against the said rejection, the petitioner preferred a writ petition before this Court in W.P.No.23876 of 2014 and the same was disposed on 29.04.2019, quashing the impugned orders passed by the respondents and directed the respondents to conduct afresh enquiry. Pursuant to the order of this Court dated 29.04.2019, the respondents have conducted afresh enquiry, thereby proving the charges against the petitioner and awarded a penalty of "Withholding of one increment for a period of two years without cumulative effect". Challenging the said order, the petitioner preferred an appeal as well as revision and the same were rejected by the respondents. Aggrieved against the said rejection, the petitioner has preferred the present Writ Petition.

3. The learned counsel for the petitioner submitted that the charges framed against the petitioner are totally incorrect and do not warrant any punishment, much less withholding of one increment for a period of two years without cumulative effect.

4. A circumspection of the fact reveals that a charge was framed against the petitioner for using filthy language against one Amaresan as well as for slapping on his face. The petitioner drew the Hindi version of evidence of P.W.2 / Viga Shree Menaka, to establish his case that there was no incident taken place and that the said witness does not know Hindi language and she was unable to recollect as to what exactly transpired between them. For the sake of convenience, the evidence of PW2 is extracted, including the translated version of her statement:

Cross Examine by CO to PW-2

Q.No.1. Whether you have seen G.V.Reddy slapped on his (Amarresan) face as per article of charge)

Ans: I observed both are shouting in front of Amaresan Quarter.

Q.No.2. Whether you know Hindi Language?

Ans: I don't know Hindi.

Q.No.3. Whether you observe ct G.V.Reddy used Filthy Language on the incident day as per article of charge?

Ans: I don't know what they are speaking but both are shouting.

Q.No.4. In which class you were studied on dated 13.09.2013 and what time you reached school?

Ans: I am studying in Diploma in Computer Engineering and I think that day Semester Leave.

Q.No.5. Whether you submitted any application to the Dy.Commandant SSP Salem on 14.09.13?

Ans: At IInd time G.V.Reddy and his wife came and asked me for compromising the problem between both (G.V.Reddy & Amaresan), Hence I write the letter to Dy. Commandant CISF SSP Salem on that day.

Q.No.6. If you want to submit any documents now?

Ans: No.

Q.No.7. Whether you submit any application to any one on 13.09.2013?

Ans: Amaresan told me to write an application as you seen the incident. Hence, I wrote the application, and given to Amaresan.

Q.No.8. Whether Inspector Subbaiah conducted PE (Preliminary enquiry) on 13.09.2013?

Ans: I don't know the name, but the CISF Personnel came my home and enquire me whether the Incident was actually happened or not.

Q.No.9. In which time you were seen the Incident on 13.09.2013?

Ans: Approx at 0900 to 1000 hrs in morning.

-sd	-sd-	-sd-	-sd-
(PW-2)	(CO)	(PO)	(EO)

RE EXAMINATION BY PO to PW-2

Q.No.1. What is your full name?

Ans: Viha Sri Menaka

Q.No.2. After the Incident on 13.09.2013 who comes First with you and asked for compromise?

Ans: Reddy came to home with her wife to compromise the problem.

Q.No.3. Whom Request with you to submit application to the Dy. Commandant, CISF Unit SSP Salem on 14.09.19?

Ans: As per request of G.V.Reddy, CISF to Compromise the problem I wrote and submit the application to the Dy. Commandant CISF Unit, SSP Salem.

Q.No.4. On 13.09.2013 the incident day whether you present in your home or not?

Ans: Yes, I am present in my home.

-sd	-sd-	-sd-	-sd-
(PW-2)	(CO)	(PO)	(EO)

Clarified Question asked by EO to PW-2

Q.No.1. Whether you saw G.V.Reddy slapped on his face of Amaresan CISF during the incident on 13.09.2013 while you are made rangoli in front of your home?

Ans: I only observed both are shouting like quar I am not observed Reddy was slapped in his face of Amaresan.

-sd	-sd-	-sd-	-sd-
(PW-2)	(CO)	(PO)	(EO)

(Translated Copy of PW-2)

I Viha Sri Menaka D/o K.Kandaswamy, that I residing at quarter No.C-21/2 of SSP Town Ship, today dated 13.09.2013 morning about 0900 to 1000 hrs when I drowling the rangole in front of my home while CISF personnel Reddy knocked the doors of our opposite quarters of Amaresan that time Amaresan is inside his quarters and came out side then beaten by Reddy and Reddy used the filthy language with Amaresan which I was seen and this is my statement.

13.09.2013

-Sd-

(Viha Sri Menaka)
D/o. K.Kadaswami

5. Admittedly, there was a quarrel between the petitioner and the complainant, pursuant to which, the unfortunate incident had taken place, for which a charge memo has been issued against the petitioner. Merely because

there is a slight difference in the statement does not entitle the petitioner to get the relief. The criminal case should be proved beyond reasonable doubt by adducing oral and documentary evidence, whereas charges in the departmental proceedings should be established on the basis of preponderance of probabilities.

6. In the present case on hand, the factum of quarrel and the subsequent compromise was not in dispute and the question of compromise does not arise, when there was a problem at all. Because of the untoward incident, there was a compromise entered between M.Amaresan (CIW) and the petitioner and the dispute between two persons have been amicably settled. However, it will not deprive the Department to proceed with the departmental proceedings which is rightly taken. Therefore, the punishment of withholding of one increment for a period of three years was suggested and the Disciplinary Authority confirmed the punishment, which was also accepted by the Appellate Authority. The Revisional Authority also passed an order. The petitioner has already approached this Court challenging the order of punishment in W.P.No.23876 of 2014 and this Court, by an order dated 29.04.2019 passed the following order:

"8. In view of the facts and circumstances of the case, the impugned order is quashed. It is open to the respondents to conduct an enquiry afresh, after affording an opportunity to the parties concerned, as per the Rules."

7. Pursuant to the above order, a fresh enquiry was conducted and thereafter, a punishment of withholding one increment for a period of two years has been imposed. When this Court has already interfered with the punishment and remanded the matter, it was open to the Original Authority, Disciplinary Authority and Revision Authority to have imposed a major punishment than the one imposed earlier. However, in the present case on hand, a lenient view has been taken and the punishment of withholding one increment for a period of two years alone was imposed. The authorities have come to the conclusion that by merely relying upon the evidence of P.W.2, the petitioner attempts to escape from the incident, by suppressing the entire incident. I find that the punishment imposed is based on preponderance of probabilities, which is perfectly justified and there is no need to interfere with the punishment imposed on the petitioner. Since the petitioner is working in the Police Department, which is otherwise called as a Discipline Force, any casual interference by this Court will give a wrong signal to other persons to indulge in similar activities.

8. In view of what is observed herein above, the Writ petition is dismissed, as devoid of merits. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

vum

To:

1. The Deputy Inspector General,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation India Limited, (NLCIL),
Cuddalore-607 802.
2. The Senior Commandant,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation India Limited, (NLCIL),
Cuddalore-607 802.
3. The Assistant Commandant/G Sector,
Central Industrial Security Force Unit,
Neyveli Lignite Corporation India Limited, (NLCIL),
Cuddalore-607 802.

4. The Group Commandant,
Central Industrial Security Force Unit,
Group Head Quarters,
Chennai - 600 090.
5. The Deputy Commandant,
Central Industrial Security Force Unit,
Salem Steel Plant (SSP),
Salem - 636 013.
6. The Assistant Commandant,
Central Industrial Security Force Unit,
Salem Steel Plant (SSP),
Salem - 636 013.

+1cc to Mr.R.Thiyagarajan, Advocate SR.No.9640

+1cc to Mr.M.Sathyan, Advocate SR.No.9695

W.P.No.3227 of 2021

LN(CO)
GMY(07/07/2021)



WEB COPY